U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 26966066

Date: JULY 8, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a purchasing manager, seeks classification as a member of the professions holding an advanced degree or as an individual of exceptional ability. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner had not established eligibility for the benefit sought. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

The regulation at 8 C.F.R. § 103.2(a)(2) provides that "[u]nless otherwise specified in this chapter, an acceptable signature on a benefit request that is being filed with the USCIS [U.S. Citizenship and Immigration Services] is one that is either handwritten or, for benefit request filed electronically as permitted by the instructions to the form, in electronic format."[1]

The *USCIS Policy Manual* provides that in "general, any person requesting an immigration benefit must sign their own immigration benefit request, and any other associated documents, before filing it with USCIS." *See generally* 1 *USCIS Policy Manual*, *supra*, at C.1 (citing to 8 C.F.R. § 103.2(a)(2)). USCIS policy explains that a valid signature is "any handwritten mark or sign made by a person" and such signature must be made by the person who is the affected party with standing to file the benefit request to signify that "[t]he person knows of the content of the request and any supporting documents; [t]he person has reviewed and approves of any information contained in such request and any supporting documents; and [t]he person certifies under penalty of perjury that the request and any other supporting documents are true and correct." *See generally* 1 *USCIS Policy Manual* B.2(B),

[1] Because the Form I-140 was not electronically filed, the provisions governing electronic filings do not apply.

https://www.uscis.gov/policymanual. A person's signature on an immigration form establishes a strong presumption that the signer knows and has assented to its contents, absent evidence of fraud or other wrongful acts by another person. *Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018) (citing *Thompson v. Lynch*, 788 F.3d 638, 647 (6th Cir. 2015); *Bingham v. Holder*, 637 F.3d 1040, 1045 (9th Cir. 2011). The probative force of a declaration subscribed under penalty of perjury derives from the signature of the declarant.

The Petitioner proposes to work in the United States as a purchasing agent. The Director of the Texas Service Center denied the petition, concluding that the Petitioner failed to personally sign the Form I-140 because the Petitioner's signature was not "a handwritten mark or sign made by an individual, and was created by a word processor, auto-pen, or similar device."

On appeal, the Petitioner asserts that the Director failed to apply the relevant law. The Petitioner contends electronic signatures are "valid and acceptable" in accordance with a now-archived web alert issued in March 2020. *See generally* USCIS Newsroom, *USCIS Announces Flexibility in Submitting Required Signatures During COVID-19 National Emergency* (March 20, 2020), https://www.uscis.gov/archive/uscis-announces-flexibility-in-submitting-required-signatures-during-covid-19-national-emergency.

The Petitioner misreads this alert and mistakenly equates electronic signatures with electronically reproduced original signatures. Contrary to the Petitioner's assertions, USCIS does not accept electronic or digitally produced signatures on forms submitted for immigration benefits. Although a signature may be considered valid if it is "photocopied, scanned, faxed, or similarly reproduced," the copy "must be of an original document containing an original handwritten signature, unless otherwise specified." *See generally* 1 *USCIS Policy Manual*, *supra*, at B. When someone acting on behalf of a petitioner's signatory electronically applies a signature to a Form I-140, it nullifies the filing because it is not a valid signature, and the petition was not properly signed under penalty of perjury. When a filing party presents a photocopy of a Form I-140 to USCIS, the photocopied form must have contained a filing party's original signature. Such was not the case here, and that deficient signature precludes the petition's approval.

The Petitioner also argues the Director erred in denying the petition based on his deficient signature and claims that the Director was required to reject the petition on the basis of his noncompliant signature. However, the Petitioner's claim is incorrect. The Director may reject, deny, or dismiss a benefit request that does not contain a valid or a proper signature. And the Director is not required to provide an opportunity to correct or cure a deficient signature. 8 C.F.R. § 103.2(a)(7)(ii)(A); *see generally* 1 *USCIS Policy Manual*, *supra*, at A. In visa petition proceedings it is a petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.