U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF R-C-I-

DATE: JUNE 22, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a hotel, seeks to employ the Beneficiary as an accountant. It requests classification of the Beneficiary as a professional under the third preference immigrant category. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). This employment-based "EB-3" immigrant classification allows a U.S. employer to sponsor a professional with a baccalaureate degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition on the ground that the Beneficiary does not have the requisite educational degree to qualify for classification as a professional.

On appeal the Petitioner asserts that the Beneficiary does have the requisite educational credential to qualify for classification as a professional.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL). *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, the DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. *See* section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third, if USCIS approves the petition, the foreign national may apply for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

For the professional classification requested here, the regulation at 8 C.F.R. § 204.5(l)(3)(ii)(C) states, in pertinent part:

> If the petition is for a professional, the petition must be accompanied by evidence that the [beneficiary] holds a United States baccalaureate degree or a foreign equivalent

> degree . . . . Evidence of a baccalaureate degree shall be in the form of an official college or university record showing the date the baccalaureate degree was awarded and the area of concentration of study.

II. ANALYSIS

At issue is whether the Beneficiary has the requisite U.S. baccalaureate or foreign equivalent degree to qualify for professional classification. Addressing criticism that its proposed regulations would bar baccalaureate equivalencies based on combinations of educational and employment experience, the former Immigration and Naturalization Service found that "both the Act and its legislative history make clear that, in order to qualify as a professional under the third classification . . ., *an alien must have at least a bachelor's degree.*" Final Rule for Employment-Based Immigrant Petitions, 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991) (emphasis added). As such, a "foreign equivalent degree" means a single degree equating to at least a U.S. bachelor's degree, excluding equivalencies based on combinations of education and employment experience, and on lesser educational credentials. Furthermore, in *Snapnames.com, Inc. v. Michael Chertoff*, 2006 WL 3491005 (D. Or. Nov. 30, 2006), the court held that, in professional and advanced degree professional cases, where the beneficiary is statutorily required to hold at least a baccalaureate degree, USCIS properly concluded that a single foreign degree or its equivalent is required. The beneficiary's degree must also be from a college or university, as the regulation at 8 C.F.R. § 204.5(l)(3)(ii)(C) requires the submission of an "official college or university record" showing that a bachelor's degree was awarded.

On the labor certification the Beneficiary identifies his highest level of education relevant to the job offered as a bachelor's degree in accounting from the [redacted] United Kingdom, completed in 2003. As evidence of the Beneficiary's educational credential the record includes a copy of a certificate from the [redacted] in [redacted] Scotland, awarding membership to the Beneficiary in November 2003, the Beneficiary's transcript of completed courses, and educational equivalency evaluations from World Education Services and Educational Credential Evaluators, both of which assert that membership in the [redacted] is comparable to a bachelor's degree in the United States.

In denying the petition, the Director found that the [redacted] is not a degree-granting academic institution, and that the membership certificate it granted to the Beneficiary does not meet the regulatory requirement of an official college or university record showing that the Beneficiary received a bachelor's degree. The Director referenced *Snapnames.com, Inc. v. Michael Chertoff*, 2006 WL 3491005, a federal district court decision that found USCIS justified in concluding that membership in the Institute of Chartered Accountants of India (ICAI) was not a college or university "degree" for purposes of classification as an advanced degree professional. The Director found that the [redacted] like the ICAI, is a membership organization, not a college or university, and membership in the [redacted] is not a degree.

On appeal the Petitioner contends that the *Snapnames* analogy should not be applied in this case because the [redacted] partners with two British universities and, according to its website, is awarding degrees. However, the evidence does not support the Petitioner's arguments. Although the website extract referenced by the Petitioner confirms that the [redacted] partners with [redacted] University to offer a bachelor of science in applied accounting and with the University of [redacted] to offer a master of science in professional accountancy, the materials do not indicate that the [redacted] grants degrees. In fact, other evidence submitted by the Petitioner makes clear that any degree awarded is in fact awarded by the affiliated universities. Specifically, the document titled '[redacted] Education Recognition Status" published by the [redacted] states '[redacted] University [redacted] in partnership with [redacted] offers a BSc (Hons) in Applied Accounting" and that "The University of [redacted] in partnership with [redacted] offers an MSc in professional accountancy. Accordingly, it is [redacted] University and the University of [redacted] which offer and award the degrees. The Petitioner also refers to a section of the [redacted] website for HOW TO BECOME A STUDENT which states that degrees are being awarded, but there is no evidence of any such document in the record. The record does include a three-page website extract entitled "APPLY TO BECOME AN [redacted] STUDENT," but it makes no reference to the awarding of degrees. In short, there is no evidence in the record that the [redacted] awards degrees in its own right or that it is recognized as a degree-granting college or university.

The Petitioner also cites the educational equivalency evaluations previously submitted, and their conclusions that the coursework completed by the Beneficiary at the [redacted] is equivalent to a bachelor's degree from an accredited U.S. college or university. We acknowledge that the coursework completed by the Beneficiary at the [redacted] may be considered comparable to the level of education received in a U.S. bachelor's degree program, but it is not a "foreign equivalent degree" as required by the regulation at 8 C.F.R. § 204.5(l)(3)(ii)(C) because the [redacted] is not a degree-granting institution and its certificate of membership is not a "degree." Because the Beneficiary's membership certificate in the [redacted] is not a baccalaureate degree issued by a college or university, it does not qualify him for classification as a professional under section 203(b)(3)(A)(ii) of the Act.[1]

III. CONCLUSION

The Beneficiary does not have a U.S. baccalaureate degree or a foreign equivalent degree, as required to qualify for classification as a professional.

ORDER: The appeal is dismissed.

Cite as *Matter of R-C-I-*, ID# 1430150 (AAO June 22, 2018)

[1] The degree requirement for professional classification was also made clear on the Form I-140 itself. In Part 2 (Petition Type) the Petitioner selected item 1.e, which states that: "This petition is being filed for a professional (at a minimum, possessing **a bachelor's degree or a foreign degree equivalent to a U.S. bachelor's degree**). (Emphasis added.)