U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-H-&A-

DATE: MAR. 20, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

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

The Acting Director of the Nebraska Service Center denied the petition, concluding that the labor certification did not require any education and therefore did not support the requested classification of professional. On appeal, the Petitioner asserts that the Director should have considered the petition under the skilled worker classification.

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

While the appeal was pending in this matter, the Petitioner submitted another visa petition on behalf of the Beneficiary, seeking to classify him as a skilled worker under Section 203(b)(3)(A)(i) of the Act.[1] The skilled worker petition was approved utilizing the labor certification that had been filed with the petition in this case. On appeal, the Petitioner's only contention is that the Director should have considered the labor certification in the context of the skilled worker classification. As the Director considered the labor certification under the skilled worker classification and approved the skilled worker petition filed on the Beneficiary's behalf, the appeal before us is now moot and we will dismiss it on that basis.

ORDER: The appeal is dismissed.

Cite as *Matter of C-H-&A-*, ID# 917182 (AAO Mar. 20, 2018)

[1] Section 203(b)(3)(A)(i) of the Act allows a U.S. employer to sponsor a foreign national for lawful permanent resident status to work in a position that requires at least two years of training or experience.