U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C- CORP.

DATE: MAY 24, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a former operator of a doughnut shop, sought to employ the Beneficiary as a doughnut maker. It requested his classification under the third-preference, immigrant category as an "other worker." Immigration and Nationality Act (the Act) section 203(b)(3)(A)(iii), 8 U.S.C. § 1153(b)(3)(iii). This employment-based, "EB-3" category allows a U.S. business to sponsor a foreign national for lawful permanent resident status to work in a job requiring less than two years of training or experience.

After the filing's initial grant, the Director of the Nebraska Service Center revoked the petition's approval and denied the Petitioner's following motions to reopen and reconsider. *See* section 205 of the Act, 8 U.S.C. § 1155 (allowing a petition's revocation "at any time" for "good and sufficient cause"). On appeal, we remanded the matter, finding that the record did not establish the Director's issuance of a required notice of intent to revoke (NOIR) to the Petitioner or counsel. *See Matter of C- Corp.*, ID# 1066978 (AAO Mar. 1, 2018). After properly mailing an NOIR on remand, the Director again revoked the petition's approval, concluding that the Petitioner willfully misrepresented the *bona fides* of the job opportunity.

The matter is again before us on appeal. The Petitioner denies the alleged misrepresentation and argues that it demonstrated the availability of the offered position to U.S. workers.[1]

Only an "affected party" may appeal a decision. 8 C.F.R. § 103.3(a)(2)(i). The term means "the person or entity with legal standing in a proceeding." 8 C.F.R. § 103.3(a)(1)(iii)(B). We must reject "[a]n appeal filed by a person or entity not entitled to file it" as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(*1*).

[1] After the appeal's filing, the Director issued another NOIR additionally alleging that the Petitioner did not demonstrate the Beneficiary's qualifying experience for the offered position. Unless adjudicators withdraw their revocation decisions, however, they may not issue NOIRs after the filing of revocation appeals. *See* 8 C.F.R. §§ 103.3(a)(2)(iii), (iv) (requiring adjudicators to promptly forward appeals and their corresponding records to the Administrative Appeals Office (AAO) if the officers decline to treat the appeals as motions and withdraw the revocations). Thus, although the Director forwarded the Petitioner's response to the most recent NOIR to us, the appeal does not address the additional, alleged revocation ground.

Here, the petitioning corporation concedes that, before filing this appeal, it sold its operations and dissolved. Online, government records confirm the Petitioner's dissolution in 2015. *See* Mich. Dep't of Licensing & Regulatory Affairs, Corps. Div., "Search for a business entity," https://cofs.lara.state.mi.us/corpweb/CorpSearch/CorpSearch.aspx (last visited Mar. 6, 2019).

As a dissolved Michigan corporation, the Petitioner can continue its corporate existence only "for the purposes of winding up its affairs." Mich. Comp. Law § 450.1833; *see also Flint Cold Storage v. Dep't of Treasury*, 776 N.W.2d 387, 395 (Mich. Ct. App. 2009) (holding that, after winding up its affairs within a "reasonable time," a dissolved Michigan corporation "ceases to exist for all purposes"). Because the Petitioner cannot exist to offer the Beneficiary permanent, future employment, it lacks legal standing to file this appeal. Under 8 C.F.R. § 103.3(a)(2)(v)(A)(*1*), we must therefore reject the appeal as improperly filed.

ORDER: The appeal is rejected.

Cite as *Matter of C- Corp.*, ID# 3355257 (AAO May 24, 2019)