U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37047748

Date: NOV. 25, 2025

Appeal of Field Operations Directorate (FOD) Decision

Form I-526, Immigrant Petition by Standalone Investor

The Petitioner seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act) section 203(b)(5), 8 U.S.C. § 1153(b)(5) (2019).[1] This fifth preference (EB-5) classification makes immigrant visas available to foreign nationals who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the U.S. economy and create at least 10 full-time positions for qualifying employees. Foreign nationals may invest in a project associated with a U.S. Citizenship and Immigration Services (USCIS) designated regional center. *See* Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993, section 610, as amended by section 575 of Pub. L. No. 114-113 (2015).

FOD denied the petition, concluding that the record did not establish that: (1) the required minimum amount of $500,000 has been invested or is actively in the process of being invested, (2) the Petitioner placed the required amount of capital at risk for the purpose of generating a return on the investment, (3) the capital, which has been invested by the Petitioner or which the Petitioner is actively in the process of investing, is capital obtained through lawful means, and (4) the required amount of capital has been made available to the business most closely responsible for job creation. The matter is now before us on appeal pursuant to 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 Petitioner asserted on Form I-526, Immigrant Petition by Alien Entrepreneur, that on August 26, 2016, she invested $500,000[2] into [redacted]

[1] On March 15, 2022, the EB-5 Reform and Integrity Act of 2022 was signed into law, revising general eligibility requirements, substantially reforming and codifying the Regional Center Program in section 203(b)(5) of the Act, and adding significant new integrity provisions. *See* section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022). As the Petitioner had filed his petition in 2016, the relevant law then in existence governs this appellate adjudication.

[2] The Petitioner had filed his petition in 2016 and asserted that the NCE will be located in a targeted employment area. Therefore, the requisite amount of capital investment was downwardly adjusted from $1,000,000 to $500,000. *See* 8 C.F.R. § 204.6(f)(2) (2019).

On appeal, the Petitioner submits a brief that is both cursory and generalized, offering little substantive discussion on one issue only, and failing to address each specific basis of FOD's decision. The Petitioner briefly contends that FOD applied the incorrect standard of review, did not adequately weigh the evidence provided, failed to provide a coherent, rational explanation for the decision, and the denial was arbitrary, capricious, and an abuse of discretion.

The Petitioner alleges that FOD applied a higher evidentiary standard in this case. Except where a different standard is specified by law, the "preponderance of the evidence" is the standard of proof governing immigration benefit requests. *See Matter of Chawathe*, 25 I&N Dec. at 375. However, the Petitioner does not further explain or identify a specific instance in which the FOD applied a standard of proof other than the preponderance of evidence in denying the petition.

We acknowledge the Petitioner's assertion that FOD referenced two actions that the Petitioner contends are not mandated by statute or regulation. However, the Petitioner does not explain the full context of these statements and does not establish that these statements were the sole or dispositive basis for the denial. Instead, it appears that FOD cited these observations in the context of evaluating overall credibility and consistency within the record. It is well established that burden of proof rests solely with the Petitioner to establish eligibility by a preponderance of evidence. *Id.* Furthermore, FOD may properly reevaluate reliability and sufficiency of the evidence and may consider inconsistencies, discrepancies, or omissions in determining if the Petitioner has met this burden. *Id* at 376. In this case, the record reflects multiple unresolved discrepancies unrelated to the two contested statements, which the Petitioner has not adequately addressed. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

More importantly, the Petitioner does not address each of the four specific grounds for denial. FOD discussed the deficiencies in the evidence submitted to demonstrate the Petitioner's eligibility as an immigrant investor and concluded that she did not establish that: (1) the required minimum amount of $500,000 has been invested or is actively in the process of being invested, (2) the Petitioner placed the required amount of capital at risk for the purpose of generating a return on the investment, (3) the capital, which has been invested by the Petitioner or which the Petitioner is actively in the process of investing, is capital obtained through lawful means, and (4) the required amount of capital has been made available to the business most closely responsible for job creation. Any ground of ineligibility that is not raised on appeal is waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)). Therefore, the Petitioner must demonstrate on appeal that every stated ground for the denial was incorrect. Instead, the Petitioner only briefly contends that she "submitted substantial relevant, probative, and credible evidence showing the Petitioner's lawful source and path of funds" and simply references an exhibit from the response to the notice of the intent to deny, which she contends documents that the NCE received $570,940 without further explanation.

As noted in FOD's decision, the Petitioner submitted evidence indicating that she transferred funds to accounts held by a couple, who in turn transferred money to the NCE. However, the record does not sufficiently demonstrate that the transferred funds were not merely recycled between accounts, nor does it clearly distinguish which portion of the funds originated from the Petitioner as opposed to those of the couple. The Petitioner's assertion on appeal that the required capital contribution was

established by referencing her prior deposits into the couple's account does not overcome the deficiencies identified by FOD.

Further, the Petitioner does not address on appeal any of the other grounds for denial identified by FOD. When an appellant fails to properly challenge one of the independent grounds upon which FOD based their overall determination, the filing party has abandoned any challenge of that ground,[3] and it follows that FOD's adverse determination will be affirmed. It is unnecessary to analyze additional grounds when another independent issue is dispositive of the appeal.[4]

It is the Petitioner's burden to demonstrate her eligibility for the EB-5 classification. Here, the Petitioner has not made such a showing.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.

[3] *See Matter of Zhang*, 27 I&N Dec. 569 n.2 (BIA 2019) (finding that an issue not appealed is deemed as abandoned); *Matter of Valdez*, 27 I&N Dec. 496, 496 n.1 (BIA 2018); *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012); *Matter of J-Y-C-*, 24 I&N Dec. 260, 261 n.1 (BIA 2007); *Matter of Cervantes*, 22 I&N Dec. 560, 561 n.1 (BIA 1999) *Matter of Edwards,* 20 I&N Dec. 191, 196–97 n.4 (BIA 1990).

[4] As the identified ground for dismissal is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve any remaining issues concerning his eligibility. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).