U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 18404557

Date: SEPT. 9, 2021

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for a Skilled Worker

The Petitioner, a Moroccan furniture importer, seeks to employ the Beneficiary as a "furniture finisher, Moroccan specialty." It requests skilled worker classification for the Beneficiary under the third preference immigrant category. *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). This employment-based "EB-3" immigrant classification allows an 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.

After initially approving the petition, the Director of the Nebraska Service Center revoked the petition's approval[1] on March 22, 2021, on the ground that the evidence of record did not establish that the Beneficiary had 24 months of experience in the job offered, as required to meet the experience requirement of the labor certification and to qualify for skilled worker classification under the Act.

A notice of appeal, Form I-1290B, was subsequently filed by the Beneficiary. In this proceeding, however, the Beneficiary is not entitled to file an appeal because he is not an "affected party" as defined in the regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B), which states that for the purpose of appealing an immigration benefit decision:

> *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The entity with legal standing in this proceeding is the Petitioner – [redacted] The Beneficiary does not have legal standing,[2] and therefore is not entitled to file an appeal.

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[1] At any time before a beneficiary obtains lawful permanent residence U.S. Citizenship and Immigration Services may revoke a petition's approval for "good and sufficient cause." Section 205 of the Act, 8 U.S.C. § 1155. A petition's erroneous approval may in and of itself justify its revocation. *Matter of Ho*, 19 I&N Dec. 582, 589 (BIA 1988).

[2] We note that USCIS recently decided to treat certain "portability-eligible" beneficiaries as affected parties in revocation proceedings. *See Matter of V-S-G-, Inc.*, Adopted Decision 2017-06 (AAO Nov. 11, 2017). However, the Beneficiary has neither asserted nor established that he is portability-eligible such that he could be considered an affected party in these proceedings. Thus, the Beneficiary lacks standing in this matter.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(*1*) provides that "[a]n appeal filed by a person or entity not entitled to file it must be rejected as improperly filed." Accordingly, the appeal filed by the Beneficiary will be rejected as improperly filed.

ORDER: The appeal is rejected.