



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 23762816

Date: JUL. 22, 2022

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Multinational Manager or Executive

The Petitioner, a diamond and jewelry trading business, seeks to permanently employ the Beneficiary as its finance manager under the first preference immigrant classification for multinational executives or managers. *See* Immigration and Nationality Act (the Act), section 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). This classification allows a U.S. employer to permanently transfer a qualified foreign employee to the United States to work in an executive or managerial capacity.

The Director of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the record did not establish that the Beneficiary would be employed in a managerial or executive capacity in the United States. The Petitioner timely filed an appeal of that decision on Form I-290B, Notice of Appeal or Motion in April 2016.¹

U.S. Citizenship and Immigration Services (USCIS) records indicate that, while this appeal was pending, the Petitioner filed a new Form I-140 on behalf of the Beneficiary. That Form I-140 was approved in February 2017 and the Beneficiary adjusted status to that of a lawful permanent resident in March 2019. While the Petitioner has not withdrawn its appeal, the issues in this proceeding are now moot in light of the Beneficiary's permanent resident status. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.

¹ The record reflects that the Director issued a notice to the Petitioner on August 13, 2019, in which he acknowledged receipt of the Form I-290B and indicated that the Petitioner's "motion" and Form I-140 would be administratively closed based on the Beneficiary's adjustment of status. However, USCIS records reflect that the appeal filed on Form I-290B remains pending.

Further, because the Petitioner filed an appeal, jurisdiction over the Form I-290B lies with the Administrative Appeals Office (AAO). The regulation at 8 C.F.R. § 103.3(a)(2)(iii) allows the reviewing official (in this case, the Director of the Texas Service Center) to treat an appeal as a motion to reopen and reconsider and take favorable action within 45 days of receipt of the appeal. However, if favorable action will not be taken, that official "shall promptly shall promptly forward the appeal and the related record of proceeding to the [AAO]." 8 C.F.R. § 103.2(a)(2)(iv). Here, the Director did not determine that favorable action was warranted within 45 days of receipt of the appeal and the record should have been promptly forwarded to the AAO.