U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21179781

Date: MAY 10, 2022

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (H-1B)

The Petitioner seeks to employ the Beneficiary under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both: (a) the theoretical and practical application of a body of highly specialized knowledge; and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position. The Vermont Service Center Director denied the Form I-129, Petition for a Nonimmigrant Worker. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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.

I. ANALYSIS

After reviewing the entire record, for the reasons set out below, we have determined that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation. Upon consideration of the record—including the arguments made on appeal—we adopt and affirm the Director's ultimate determination as it relates to the regulatory criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*)–(*4*). *See Matter of P. Singh, Attorney*, 26 I&N Dec. 623, 624 (BIA 2015) (citing *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994)); *see also Chen v. INS*, 87 F.3d 5, 7–8 (1st Cir. 1996) ("[I]f a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings" provided the tribunal's order reflects individualized attention to the case).

Further, we note that the Director denied the petition based on two independent grounds:

1. The Director thoroughly discussed the Petitioner's failure to meet any of the four regulatory criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*)–(*4*); and
2. They decided that the Petitioner's minimum entry requirements for the offered position were in a wide variety of disparate fields of study. In particular, the Director indicated that the

Petitioner did not explain how the field of business administration—without any further specialization—was sufficiently related to the offered position's duties.

Each of these individual issues standing alone would serve as an independent basis for a denial. Therefore, the appellant here, must sufficiently demonstrate that every stated ground for the denial was incorrect. However, within the appeal the Petitioner only adequately addresses item 2.

On appeal, the Petitioner argues that:

- The Director generally failed to consider its evidence and arguments relating to its minimum education requirements for the offered position;
- The Director mischaracterized the content of an opinion letter speaking to those position requirements; and
- They applied an increased burden of proof beyond the preponderance standard to this case.

We note that the Petitioner included short statements of error relating to item 1 listed above (i.e., 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*), (3)) on the Form I-290B under Part 7. Additional Information. However, it does not explain the manner in which the Director committed an error in their denial analysis and the Petitioner simply claims that the Director erred in their ultimate determination relating to those two regulatory criteria.

First relating to 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*), the Petitioner simply stated that the Director "improperly disregarded the complexity and uniqueness of the job responsibilities which also marks the position as a specialty occupation." This general statement of disagreement fails to inform us of what specific error the Director may have made or what elements they disregarded from the position that were so complex or unique. Second, under the requirement that the Petitioner demonstrate that it normally requires a specialized degree or an equivalent under 8 C.F.R. § 214.2(h)(4)(iii)(A)(*3*), the Director noted that all of the Petitioner's evidence post-dated the petition filing date—which does not demonstrate eligibility at the of filing in line with 8 C.F.R. § 103.2(b)(1)—and the organization's statements were not sufficient to carry its burden under this criterion. On appeal, the Petitioner does not explain or even address how the Director erred in making that determination. These two claims of error are not adequately detailed and they do not inform us of what specific error the Director may have committed when analyzing the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*)–(*4*).

The reason for filing an appeal is to provide an affected party with the means to remedy what it perceives to be an erroneous conclusion of law or statement of fact within a decision in a previous proceeding. *See* 8 C.F.R. § 103.3(a)(1)(v). As it relates to the regulatory criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*)–(*4*), by presenting only a generalized statement without explaining the specific aspects of the denial they consider to be incorrect, the affected party fails to identify a sufficient basis for the appeal. *Matter of Valencia*, 19 I&N Dec. 354, 354–55 (BIA 1986). In order to review this appeal, it would therefore be necessary to search through the record and speculate on what possible errors the Petitioner claims. Further, the burden to present and develop the arguments lie with the Petitioner. Section 291 of the Act; *Chawathe*, 25 I&N Dec. at 375. It is insufficient for a petitioner's appeal to mention a possible argument in a skeletal way, leaving it up to us to put flesh on its bones. *See Al-Tamimi v. Adelson*, 916 F.3d 1, 6 (D.C. Cir. 2019); *Singh v. Gonzales*, 416 F.3d 1006, 1010 (9th Cir. 2005) (citing to *Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 820 (9th Cir. 2003)).

Consequently, the Petitioner has not satisfied its burden to demonstrate eligibility as it relates to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*)–(*4*). As a result, even if the Petitioner overcame the issues it addresses within the appeal brief (broadly its minimum education requirements for the offered position), it still would not demonstrate that the petition should be approved. Because the Petitioner has not offered sufficient information specifically relating to and contesting one of the independent bases of the Director's decision (i.e., the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*)–(*4*)), and because we see no obvious error in that analysis, it is unnecessary for us to reach a decision on the Petitioner's minimum education requirements for the offered position. When the Director includes multiple dispositive bases in their denial, an appealing party must sufficiently contest all of those reasons.

II. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here, and the petition will remain denied.

ORDER: The appeal is dismissed.