U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 28102078

Date: AUG. 29, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, an administrative services and facilities manager, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional or an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this classification. See Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding the Petitioner did not establish eligibility for the underlying second preference classification as an advanced degree professional or an individual of exceptional ability, nor did she establish eligibility for a national interest waiver under the framework outlined in Matter of Dhanasar, 26 I&N Dec. 884 (AAO 2016). The matter is now before us on appeal. 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 Director determined the Petitioner did not establish eligibility for the EB-2 classification as an advanced degree professional or as an individual of exceptional ability. On appeal, the Petitioner does not address or dispute the Director's determination that she has not established eligibility as an individual of exceptional ability.[1] Rather, she reasserts she qualifies as an advanced degree professional by stating verbatim:

> . . . [The Petitioner] submitted evidence of a bachelor's degree in foreign language from [redacted] University named after [redacted] As the RFE Response notes, this degree is the minimum requirement for entry into the occupation of Administrative

[1] We consider the Petitioner's eligibility for the EB-2 classification as an individual of exceptional ability to be an abandoned issue. See Matter of R-A-M-. 25 I&N Dec. 657. 658 n.2 (BIA 2012) (stating that when a filing party fails to appeal an issue addressed in an adverse decision, that issue is waived). *See also Sepulveda v. U.S. Att'v Gen.*, 401 F.3d 1226. 1228 n. 2 (11th Cir. 2005). citing United States v. Cunningham, 161 F.3d 1343, 1344 (11th Cir. 1998); Hristov v. Roark, No. 09-CV-27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (plaintiff's claims were abandoned as he failed to raise them on appeal to the AAO).

> Services and Facilities Manager, [the Petitioner's] field. [The Petitioner's] resume shows five years of experience in her specialty. The Officer discounts [the Petitioner's] resume, making a conclusory statement that "the experience listed does not equate to five years of progressive experience in the indicated specialty." [The Petitioner's] career experience does in fact relate to her field, and the Officer fails to specify why it does not. . . .

We adopt and affirm the Director's decision regarding the specific issue of eligibility for the EB-2 classification. See Matter of Burbano, 20 I&N Dec. 872, 874 (BIA 1994); see also Giday v. INS, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); Chen v. INS, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

The Director addressed the evidentiary deficiencies in the Petitioner's education and experience documentation. As the Petitioner has not presented any additional evidence on appeal to address the identified deficiencies, she has not overcome them. The Petitioner must support her assertions with relevant, probative, and credible evidence. See Matter of Chawathe, 25 I&N Dec. 369 at 376. Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. Fedin Bros. Co., Ltd. v. Sava, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), aff'd, 905 F. 2d 41 (2d. Cir. 1990); Avyr Associates, Inc. v. Meissner, 1997 WL 188942 at *5 (S.D.N.Y.). Similarly, USCIS need not accept primarily conclusory assertions. 1756, Inc. v. The Attorney General of the United States, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Although the Petitioner did not explain how her work experience relates to administrative services and facilities management, she nevertheless asserts that the Director erred in concluding the experience does not relate to her proposed field. As it is the Petitioner's burden to demonstrate eligibility by a preponderance of the evidence, we do not agree that the Director erred in concluding her experience, as presented, does not relate to the proposed field. Furthermore, even if the Petitioner had demonstrated at least five years of related experience, such experience would not establish her eligibility as an advanced degree professional because the Petitioner has not first demonstrated that she earned a minimum of a baccalaureate degree or equivalent.

Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's remaining appellate arguments. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); see also Matter of L-A-C-, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.