U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 10106690

Date: APR. 26, 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. LAW

The regulation at 8 C.F.R. § 103.2(a)(2) provides that "[u]nless otherwise specified in this chapter, an acceptable signature on a benefit request that is being filed with the USCIS [U.S. Citizenship and Immigration Services] is one that is either handwritten or, for benefit requests filed electronically as permitted by the instructions to the form, in electronic format."[1]

USCIS policy explains that a valid signature is "*any handwritten mark or sign made by a person*" and such signature must be made by the person who is the affected party with standing to file an appeal or motion to signify that "[t]he person knows of the content of the request and any supporting documents; [t]he person has reviewed and approves of any information contained in such request and any supporting documents; and [t]he person certifies under penalty of perjury that the request and any other supporting documents are true and correct." 1 *USCIS Policy Manual* B.2(B) (emphasis added), https://www.uscis.gov/policymanual. A person's signature on an immigration form establishes a strong presumption that the signer knows its contents and has assented to them, absent evidence of fraud or other wrongful acts by another person. *Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018)

[1] Because this Form I-290B was not electronically filed, none of the provisions relating to electronic filings applies in this case.

(citing *Thompson v. Lynch*, 788 F.3d 638, 647 (6th Cir. 2015); *Bingham v. Holder*, 637 F.3d 1040, 1045 (9th Cir. 2011). The probative force of a declaration subscribed under penalty of perjury derives from the signature of the declarant.

The USCIS Policy Manual provides that in "general, any person requesting an immigration benefit must sign their own immigration benefit request, and any other associated documents, before filing it with USCIS." 1 *USCIS Policy Manual*, *supra*, at C.1 (citing to 8 C.F.R. § 103.2(a)(2)). Although a signature may be considered valid if it is "photocopied, scanned, faxed, or similarly reproduced.... the copy must be of an original document containing an original handwritten signature, unless otherwise specified." 1 *USCIS Policy Manual*, *supra*, at B. If someone acting on behalf of a petitioner's signatory—to include someone from their attorney's office—performs the function of electronically applying a signature to a Form I-290B, that act nullifies the filing because it is not a valid signature and it is not properly signed under the penalty of perjury. Ultimately, even if a filing party presents a photocopy of a Form I-290B to USCIS, that photocopied form must contain a filing party's original signature that is consistent with how the person signing normally signs his or her name because "[a]n applicant or petitioner must sign his or her benefit request." 8 C.F.R. § 103.2(a)(2).

Although the "regulations do not require that the person signing submit an 'original' or 'wet ink' signature on a petition, application, or other request to USCIS," we do "not accept signatures created by a typewriter, word processor, stamp, auto-pen, or similar device." 1 *USCIS Policy Manual*, *supra*, at B. *Also see* 1 *USCIS Policy Manual*, *supra*, at A (stating that "[e]xcept as otherwise specifically authorized, a benefit requestor must personally sign his or her own request before filing it with USCIS"). USCIS has implemented these regulations and attendant policies "to maintain the integrity of the immigration benefit system and validate the identity of benefit requestors." 1 *USCIS Policy Manual*, *supra*, at A.

In the same way that one person signing a declaration "for" another person carries no evidentiary force, neither will an image of a signature duplicated in using some electronic means or method. Without the signatory's actual and personal signature as the declarant, the declaration under the penalty of perjury on the Form I-290B has no evidentiary force. *See In re Rivera*, 342 B.R. 435, 458–59 (D. N.J. 2006); *Blumberg v. Gates*, No. CV 00-05607, 2003 WL 22002739 (C.D. Cal. Aug. 19, 2003). Moreover, if we determine that a benefit request does not contain a valid or a proper signature, we reject, deny, or dismiss it without providing an opportunity to correct or cure a deficient signature. 8 C.F.R. § 103.2(a)(7)(ii)(A); 1 *USCIS Policy Manual*, *supra*, at A.

The USCIS Policy Manual further explains that the agency interprets the regulatory term "valid signature" to mean a signature that "is consistent with how the person signing normally signs his or her name." 1 *USCIS Policy Manual*, *supra*, at B (explaining that the appearance of the signature on USCIS forms must be preponderantly consistent with that person's normal signature).

II. ANALYSIS

On the appellate Form I-290B, the form contains an image of a signature under Part 4 8.a in the Petitioner's Signature block as well as an original signature under Part 6 8.a in the Preparer's Signature

block.[2] We conclude that this is an image of a signature and not an original signature due to multiple factors. First, the Form I-290B contains "imperfections" or unusual marks below the signature image. It appears that the person who extracted the image from another document, brought with it additional content. This is an indication that this may have been copied from another source and electronically transferred onto the Form I-290B. Second, the first letter of the last name is "cut off" at the upper portions of the letter. This further contributes to the likelihood that this image was electronically placed onto this document from another source. Finally, the image of the signature under Part 4 8.a is not similarly represented on other material in the record, meaning it is distinct in appearance from any of the signatory's other signatures throughout the record.

Because of the above factors, we conclude that it is more likely than not that the image of the signature on the Form I-290B is not a valid signature as required by the regulation. 8 C.F.R. § 103.2(a)(7)(ii)(A). Therefore, the Petitioner's signatory has not satisfied the employer's burden of proof, or the preponderance standard of proof, that the signature on the Form I-290B is a valid signature. *Matter of Chawathe*, 25 I&N Dec. 369, 375 n.7 (AAO 2010) (explaining that the filing party bears the burden of proof, and that the preponderance standard does not relieve them from satisfying regulatory requirements, such as providing a "valid signature").

Considering the totality of the circumstances, the record preponderantly reflects that the signature of the Petitioner's signatory on the Form I-290B was electronically applied to the form and it is not their "original handwritten signature," as require by the USCIS Policy Manual. 1 *USCIS Policy Manual*, *supra*, at B. Based on that determination, we are dismissing the appeal. Additionally, because we conclude the signature in question is not "any handwritten mark or sign made by a person," we are not primarily basing this decision on a signature that appears inconsistent with other signatures in the record, and we will not issue a notice seeking additional information relating to the appearance of the signature.

If the Petitioner does not establish that the Form I-290B was personally signed by an authorized individual, we cannot recognize the appeal to have been properly filed by an affected party with legal standing in these proceedings. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B). Nor can we decide that the Petitioner properly filed this appeal, and we will dismiss this filing. *See* 1 *USCIS Policy Manual*, *supra*, at B.

In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden. The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision.

ORDER: The appeal is dismissed.

[2] We note that although the Form I-290B was not accompanied by a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, it was signed by a preparer purporting to be an attorney or an accredited representative. Because we have determined that this appeal was not otherwise properly filed, we are not required to request that the attorney or representative submit a Form G-28 to our office. *See* 8 C.F.R. § 103.3(v)(A)(2)(i)–(iii) (explaining that only in instances in which USCIS is reviewing an otherwise properly filed appeal, should it request a properly executed Form G-28 when one is not provided).