U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF S- INC.

DATE: FEB. 5, 2019

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a manufacturer and distributor of power tools, seeks to employ the Beneficiary as a supplier quality engineer. It requests his classification under the second-preference immigrant category as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2)(A), 8 C.F.R. § 1153(b)(2)(A). This employment-based, "EB-2" category allows a U.S. business to sponsor a foreign national for lawful permanent resident status to work in a job requiring at least a master's degree, or a bachelor's degree followed by five years of experience.

The Acting Director of the Texas Service Center denied the petition. On appeal, we affirmed the Director's conclusion that the Petitioner did not demonstrate the Beneficiary's possession of the minimum educational requirements of the offered position. *See Matter of S-I-*, ID# 1255922 (AAO July 27, 2018). We also found that the Petitioner did not demonstrate the Beneficiary's qualifying experience for the job.

The matter is before us again on the Petitioner's motion to reconsider. The Petitioner asserts that our appellate decision relied on general information inapplicable to the Beneficiary's specific foreign degree and should have credited independent evaluations of the degree submitted by the company.

Upon review, we will deny the motion.

I. MOTION CRITERIA

A successful motion to reconsider must establish that, based on the record at that time, a prior decision misapplied law or policy. 8 C.F.R. § 103.5(a)(3). A motion to reconsider must also cite a pertinent precedent or adopted decision, statutory or regulatory provision, or statement of U.S. Citizenship and Immigration Services (USCIS) or Department of Homeland Security policy. *Id.*

II. THE EDUCATIONAL REQUIREMENTS OF THE OFFERED POSITION

The Petitioner contends that, in concluding that it did not establish the Beneficiary's qualifying educational credentials for the offered position, we improperly relied on a report in the Electronic Database for Global Education (EDGE).[1] Federal courts have found EDGE to be a reliable, peer-reviewed source of foreign educational equivalencies. *See, e.g., Viraj, LLC v. U.S. Att'y Gen.*, 578 Fed. Appx. 907, 910 (11th Cir. 2014) (describing EDGE as "a respected source of information"). But the Petitioner argues that the database does not address the Beneficiary's specific Spanish degree. The Petitioner claims that the Beneficiary's university curriculum predates the information in EDGE. It contends that his *titulo universitario oficial de ingenerio industrial* reflects six years of combined undergraduate and graduate studies and that, as the position requires, his foreign credential equates to a U.S. master's degree in industrial engineering. We noted that EDGE indicates that a Spanish *titulo de ingenerio* reflects five years of post-secondary studies, equating to only a U.S. bachelor's degree. The Petitioner asserts that we disregarded evidence of the Beneficiary's six-year program and improperly relied on EDGE, "a *general* evaluation resource encompassing many foreign education systems but not providing first-hand information regarding the specific university in this matter." (emphasis in original).

We discussed EDGE's information, however, because the Petitioner's own evidence quotes from it. The Petitioner submitted an evaluation that, while equating the Beneficiary's degree to a U.S. master of science in industrial engineering, cites EDGE's statement that "[t]he degree is [a]warded after 5 years of post-secondary study in engineering and a[n] end-of-course project." Thus, we noted that the evaluation conflicts with the Petitioner's contention that the Beneficiary has six years' worth of university studies. The two other evaluations submitted by the Petitioner also state the Beneficiary's completion of only five years of studies. A petitioner must resolve inconsistencies of record by independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 592, 591 (BIA 1988). We therefore properly cited EDGE to illustrate discrepancies in the Petitioner's evidence.

The Petitioner also asserts that we should have credited the educational evaluations it submitted. As indicated above, however, the evaluations are unreliable because they conflict with the Petitioner's assertions and evidence. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (authorizing the immigration service to reject or afford lesser evidentiary weight to an expert opinion that conflicts with other evidence or "is in any way questionable"). The evaluations not only state that the Beneficiary completed only five years' worth of university coursework, but two of them disagree on the prerequisites for his university program. One states that the program required high school graduation and competitive university entrance examination scores. The other, however,

[1] EDGE was created by the American Association of College Registrars and Admissions Officers (AACRAO). "AACRAO is a non-profit, voluntary, professional association of more than 11,000 higher education professionals who represent approximately 2,600 institutions in more than 40 countries." AACRAO, "Who We Are," https://www.aacrao.org/who-we-are (last visited Jan. 29, 2019).

states that admission required students to "complete all the undergraduate coursework necessary to attain the equivalent to a Diplomate in Engineering, which is awarded after completion of 3 years of post-secondary study and the successful completion of a University Orientation Course, consisting of one year of university preparatory coursework." Both of these evaluations also state that the Beneficiary completed 120 credit hours of undergraduate coursework and 30 hours of graduate coursework, equating to a five-year U.S. master's degree in industrial engineering. But, as discussed in our appellate decision, the Beneficiary's university transcripts do not indicate the hour or credit values of his courses, and the evaluations don't explain the bases of their findings. The evaluations also do not establish that the Beneficiary's coursework favorably compares to curricula of U.S. universities issuing five-year graduate degrees in industrial engineering. The evaluations therefore do not establish the Beneficiary's possession of a foreign equivalent of a U.S. master's degree in industrial engineering.

In addition, the Petitioner contends that we should have followed our prior, non-precedent decision in *Matter of M-D-F- Inc.*, ID# 389801 (AAO Aug. 2, 2017). In *M-D-F-*, we rejected EDGE's indication that a beneficiary's foreign degree equated to only a U.S. bachelor's degree. We found that EDGE's information reflected the most recent educational system in the country of the degree's issuance, rather than the system in place as of the credential's issuance. The Petitioner argues that, like the petitioner in *M-D-F-*, it has submitted evidence that the Beneficiary received his degree under a prior educational regime.

As a non-precedent decision, however, *M-D-F-* does not bind us in this matter. *See* 8 C.F.R. § 103.3(c) (stating that only precedent USCIS decisions are binding in future proceedings). *M-D-F-* is also distinguishable from this case. Unlike the petitioner in *M-D-F-*, the Petitioner here has not established the Beneficiary's receipt of his degree under a different educational regime. A letter from an engineering professor at the Beneficiary's university and other documentation indicates that the Beneficiary completed six years' worth of courses. But the evaluations upon which the Petitioner relies state his completion of only five years' worth of studies. The Petitioner has not explained these inconsistencies and therefore has not established that EDGE's information does not apply to the Beneficiary.

Finally, the Petitioner asserts that a U.S. university recognized the Beneficiary's degree as the equivalent of a U.S. master's degree when it admitted him into a master of business administration (MBA) program. The Petitioner submitted a letter from the university's director of MBA programs stating that the school required the Beneficiary "to submit his Master in Industrial Engineering from the [Spanish university], with a recognized US equivalence as bachelor's and master's degree."

Contrary to the Petitioner's assertion, however, the letter does not establish the university's recognition of the Beneficiary's degree as the equivalent of a U.S. master's degree. Online information indicates that admission to the university's MBA program required only a bachelor's degree. *See* College of William & Mary, "Flex MBA Requirements and Deadlines," https://mason.wm.edu/programs/mbas/part-time-mba/admissions/ requirements/index.php (last visited Jan. 29, 2019) (requiring a "[m]inimum of an undergraduate degree from an accredited

institution of higher education"). Because the evaluations concluded that the Beneficiary's degree equates to at least a U.S. bachelor's degree, the university may not have relied on their master's degree conclusions. Upon reconsideration, the record therefore does not establish the Beneficiary's possession of the minimum educational requirements of the offered position.

III. THE EXPERIENCE REQUIREMENTS OF THE OFFERED POSITION

The Petitioner's motion does not contest our finding of the record's insufficiency to establish the Beneficiary's qualifying experience for the offered position. Contrary to 8 C.F.R. § 204.5(g)(1), the letter from the Beneficiary's former employer lacks the company's address and the full title of the document's author. Upon reconsideration, the record therefore does not demonstrate the Beneficiary's possession of the minimum experience required for the offered position.

IV. CONCLUSION

The motion does not establish that we erred in concluding that the Petitioner did not demonstrate the Beneficiary's educational or experience qualifications for the offered position. We will therefore affirm our appellate decision.

ORDER: The motion to reconsider is denied.

Cite as *Matter of S- Inc.*, ID# 2354212 (AAO Feb. 5, 2019)