



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

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

In Re: 17624197

Date: AUG. 10, 2021

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Advanced Degree Professional

The Petitioner sought to employ the Beneficiary as a healthcare administrator. The business requested his classification under the second-preference, immigrant visa category for members of the professions holding advanced degrees or their equivalents. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A).

After the filing's initial grant, the Director of the Texas Service Center revoked the petition's approval. The Beneficiary appealed the decision to us, while the Petitioner filed combined motions to reopen and reconsider the decision to the Director. The Director dismissed the Petitioner's motions, and the business appealed the motions decision. Considering the appeals of the Beneficiary and Petitioner together, we remanded the matters to the Director. *Matter of L-S-A-P-, P.C.*, ID# 81869 (AAO Feb. 2, 2018). We instructed him to determine the Beneficiary's eligibility to participate in the revocation proceedings under *Matter of V-S-G- Inc.*, Adopted Decision 2017-06 (AAO Nov. 11, 2017). *Id.*¹

On remand, the Director allowed the Beneficiary to participate in the proceedings and issued a new decision denying the petition. The Director concluded that the Beneficiary did not demonstrate: 1) his qualifying experience for the offered position and the requested immigrant visa category; 2) the Petitioner's required ability to pay the position's proffered wage; or 3) the *bona fides* of the job opportunity. The Director also found that the Petitioner and Beneficiary willfully misrepresented material facts in the petition.

The Director, however, lacked authority to deny the previously approved petition. We remanded the matter to him in *revocation* proceedings. Under 8 C.F.R. § 205.2, U.S. Citizenship and Immigration Services (USCIS) must either revoke a petition's approval or allow the grant to stand. *See also* 8 C.F.R. § 204.5(n) (stating that an approved, employment-based petition remains valid indefinitely unless USCIS revokes the filing's approval). Thus, the Director erred in denying the petition. We will therefore withdraw the Director's decision and remand the matter again.

¹ *V-S-G-* requires USCIS to treat beneficiaries in revocation proceedings as affected parties if they properly requested to "port" to new jobs under section 204(j) of the Act, 8 U.S.C. 1154(j), and qualify for "portability." *Id.*, slip op. at *14.

On remand, the Director should issue a notice of intent to revoke the petition's approval to the Beneficiary, detailing the proposed revocation grounds and affording him a reasonable opportunity to respond. *See* 8 C.F.R. § 205.2(b). Upon receipt of a timely response, the Director should review the entire record and enter a new decision.

ORDER: The decision of the Director is withdrawn. The matter is remanded for entry of a new decision consistent with the foregoing analysis.