U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30361521

Date: APR. 5, 2024

Appeal of Texas Service Center Decision

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

The Petitioner is an architect who seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, 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 Texas Service Center Director denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the record did not establish that she qualifies for the underlying visa classification or merits a discretionary waiver of the job offer requirement in the national interest. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) 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." *See generally* 1 *USCIS Policy Manual* B.2(B) (emphasis added), https://www.uscis.gov/policymanual. A person's signature on an immigration form

[1] Because this Form I-290B was not electronically filed, none of the provisions relating to electronic filings applies in this case. We note the Form I-290B is not a form that is available for parties to file electronically online. *Forms Available to File Online*, USCIS (Mar. 21, 2024), https://www.uscis.gov/file-online/forms-available-to-file-online.

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) (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." *See generally* 1 *USCIS Policy Manual*, *supra*, at C.1 (citing to 8 C.F.R. § 103.2(a)(2)). Agency policy provides that "[a] signature is valid even if the original signature on the document is photocopied, scanned, faxed, or similarly reproduced. Regardless of how it is transmitted to USCIS, the copy must be of an original document containing an original handwritten signature, unless otherwise specified." *See generally* 1 *USCIS Policy Manual*, *supra*, at B.

Finally, the regulation at 8 C.F.R. § 292.4(a) requires that the Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative "must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS."

If someone acting on behalf of a petitioner—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." *See generally* 1 *USCIS Policy Manual*, *supra*, at B. *Also see generally* 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." *See generally* 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 Petitioner'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); *see generally* 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." *See generally* 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 6.a in the Petitioner's Signature block. We conclude that this is an image of a signature and not an original signature due to multiple factors. First, the Petitioner's signatures on the appellate forms (Form I-290B and the Form G-28) are identical and indistinguishable, to include each line, loop, slant, spacing, and pen lift. Second, while the sole differentiating element between these two signatures is the image used on the Form I-290B is slightly smaller in size than the image on the Form G-28, the ratio of height to width is consistent throughout the signature.

Third, the images of the Petitioner's signature on both appellate forms contain an "imperfection" or an unusual mark in the form of a small line below the signature image. On the Form I-290B, this merely appears to be a small line made by a pen, but on the Form G-28 it seemingly creates a tilde symbol above the letter "e" in the word "Signature." 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 submitted appellate forms. And we note the Form G-28 dated June 16, 2023, that appears the Petitioner provided when responding to the Director's request for evidence is also identical in every measure to the images on the appellate forms.

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). To be valid here, regardless of how the filing party transmits the immigration form to USCIS, any signature must be on an original immigration form "containing an original handwritten signature, unless otherwise specified." *See generally* 1 *USCIS Policy Manual*, *supra*, at B.

We observe the same shortcomings on the appellate Form G-28, meaning that form does not comply with the regulation at 8 C.F.R. § 292.4(a) requiring that the Form G-28 "must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS." Therefore, the Petitioner has not satisfied their burden, or the preponderance standard of proof, that the signature on the Form I-290B or the Form G-28 are valid signatures. *Chawathe*, 25 I&N Dec. at 375 n.7 (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 signatures of the Petitioner on the Form I-290B and the Form G-28 were electronically applied to the forms and those are not their "original handwritten signature," as required by the USCIS Policy Manual. *See generally* 1 *USCIS Policy Manual*, *supra*, at B. Based on that determination, we are dismissing the appeal. Additionally, because we conclude the signatures in question are not "any handwritten mark or sign made by a person," we are not 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 record does not establish that the Form I-290B and the Form G-28 were personally signed by the Petitioner, we cannot recognize the appellate forms 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 generally* 1 *USCIS Policy Manual*, *supra*, at B.

Even if the appellate filing did not contain these signature issues, we would still dismiss the appeal. Regarding the second prong requirements from *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), the Director denied the petition in part on this dispositive requirement; dispositive meaning the Petitioner cannot qualify for a national interest waiver without satisfying this freestanding necessity. In the appeal, the Petitioner must first identify an error in fact or in applying the law that the Director made in their denial decision. However, pertaining to *Dhanasar's* second prong, the Petitioner presents the same arguments and evidence she offered before the Director without alleging any erroneous conclusion of law or fact.

The reason for filing an appeal is to provide an affected party with the means to remedy what they perceive as an erroneous conclusion of law or statement of fact within a previous proceeding. *See* 8 C.F.R. § 103.3(a)(1)(v). By presenting only a generalized statement of disagreement with the Director's conclusion without explaining the specific aspects they consider to be incorrect, the affected party has failed to identify the basis for contesting this requirement on appeal, and effectively abandons or waives that claim on appeal. There is agreement among several circuit courts of appeals on this issue. *Minghai Tian v. Holder*, 745 F.3d 822, 827 (7th Cir. 2014); *Zivojinovich v. Barner*, 525 F.3d 1059, 1062 (11th Cir. 2008); *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n.2 (11th Cir. 2005); *Irwin v. Hawk*, 40 F.3d 347, 347 n.1 (11th Cir. 1994); *Rivera-Gomez v. de Castro,* 843 F.2d 631, 635 (1st Cir. 1988); *Leer v. Murphy*, 844 F.2d 628, 634 (9th Cir. 1988); *Tedder v. F.M.C. Corp.,* 590 F.2d 115, 117 (5th Cir. 1979). *See also Matter of Valencia*, 19 I&N Dec. 354, 354–55 (BIA 1986).

Whether an appellant has sufficiently addressed a claim relies on at least two aspects. First, they must raise the "core issue" before us within the appeal. *Montano Cisneros v. U.S. Att'y Gen.,* 514 F.3d 1224, 1228 n.3 (11th Cir. 2008). Second, the appellant must also set out any discrete arguments it relies on in support of that core issue claim. *Shkambi v. U.S. Att'y Gen.,* 584 F.3d 1041, 1048 n.4 (11th Cir. 2009). While there is no requirement for a petitioner to "use precise legal terminology" or provide abundantly developed arguments to support their claim, an appellant is required to "provide information sufficient to enable [the appellate body] to review and correct any errors below." *Indrawati v. U.S. Att'y Gen.,* 779 F.3d 1284, 1297 (11th Cir. 2015) (quoting *Arsdi v. Holder,* 659 F.3d 925, 929 (9th Cir. 2011)).

Similarly, the Supreme Court has recognized the common-law application of issue preclusion as appropriate within administrative proceedings. *Astoria Fed. Sav. & Loan Ass'n v. Solimino*, 501 U.S. 104, 107 (1991). When a decision has been decided within administrative proceedings, no relitigation on an issue identical in substance and by the same party is warranted, as it would be an unjustifiable burden and would drain the resources of the agency's adjudicatory system. *Id.* at 107–08. *See also Bravo-Fernandez v. United States*, 580 U.S. 5, 9 (2016) (quoting *New Hampshire v. Maine*, 532 U.S. 742, 748 (2001) (finding it is appropriate to foreclose a rehashing of the very same claim)).

As a result, the Petitioner would not prevail on appeal within a merits analysis because they have waived a dispositive issue; the second prong of the *Dhanasar* analysis. Because the Petitioner has abandoned or waived a dispositive requirement in the appeal, even if we were to decide on the merits, we would not address and we would reserve their remaining appellate arguments. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also Matter of Chen*, 28 I&N Dec. 676, 677 n.1, 678 (BIA 2023) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. 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 a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.