U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36722610

Date: FEB. 18, 2025

Appeal of Nebraska Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (H-1B)

The Petitioner seeks to temporarily 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 file a petition with U.S. Citizenship and Immigration Services (USCIS) 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 Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the proffered position is a specialty occupation, or that the Beneficiary is qualified for the proffered position. The matter is now before us on appeal pursuant to 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.

Section 101(a)(15)(H)(i)(b) of the Act defines an H-1B nonimmigrant as a foreign national "who is coming temporarily to the United States to perform *services . . . in a specialty occupation* described in section 214(i)(1) . . . " (emphasis added). Section 214(i)(l) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires the "theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States." The regulation at 8 C.F.R. § 214.2(h)(4)(ii) largely restates section 214(i)(l) of the Act, but adds a non-exhaustive list of fields of endeavor.

In addition, 8 C.F.R. § 214.2(h)(4)(iii)(A) provides that the proffered position must meet one of four criteria to qualify as a specialty occupation position. 8 C.F.R. § 214.2(h)(4)(iii)(A) must be read with the statutory and regulatory definitions of a specialty occupation under section 214(i)(1) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). We construe the term "degree" to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proposed position. *See Royal*

Siam Corp. v. Chertoff, 484 F.3d 139, 147 (1st Cir. 2007) (describing "a degree requirement in a specific specialty" as "one that relates directly to the duties and responsibilities of a particular position").

The Petitioner seeks to employ the Beneficiary in the position of business operations analyst. On the certified labor condition application (LCA) submitted in support of the petition, the Petitioner designated the proffered position to be in the occupational category of "Business Operations Specialists, All Others," with Standard Occupational Classification (SOC) code 13-1199.00. The Petitioner states that a bachelor's degree in business administration or a related field is required.

The Director denied the petition, finding that the Petitioner did not establish that the position qualifies as a specialty occupation under any of the four specialty occupation criteria enumerated at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*)-(*4*). The Director also concluded that the record did not establish that the Beneficiary is qualified for the proffered position. On appeal, the Petitioner asserts that this conclusion is "based on a misunderstanding of the provided evidence, as the position clearly satisfies the regulatory requirements." In support of this claim, the Petitioner repeats the assertions previously presented to the Director. However, the Petitioner does not identify any specific erroneous conclusions of law or statements of fact by the Director.

We have consistently stated that, although a general-purpose bachelor's degree, such as a degree in business, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a conclusion that a particular position qualifies for classification as a specialty occupation. *See Royal Siam Corp.*, 484 F.3d at 147.

Because the evidence reflects that the Petitioner will accept a bachelor's degree in business administration, without further specialization, for the proffered position, the Petitioner's minimum requirement to perform the duties does not satisfy the statutory and regulatory definitions of the H-1B program. *See* section 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii). The degree requirement set by the statutory and regulatory framework is not a just a bachelor's degree, or a bachelor's degree in disparate fields, but a bachelor's degree *in a specific specialty* that is directly related to the duties of the position. For this reason alone, the record satisfies neither the statutory nor the regulatory definitions of the term "specialty occupation," regardless of whether the position satisfies any of the four specialty-occupation criteria enumerated at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*)-(*4*).

Our conclusion that the Petitioner has not established that the proffered position is for a specialty occupation is dispositive of the Petitioner's appeal. We therefore decline to reach and hereby reserve our opinion regarding whether the Petitioner has established the Beneficiary's qualification for the proffered position. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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 the applicant is otherwise ineligible).

The appeal will be dismissed for the above stated reasons. 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.