U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 8847294

DATE: JUNE 8, 2020

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker

The Petitioner, a software, services and internet technologies business, seeks to temporarily employ the Beneficiary as a product marketing manager 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 Director of the California Service Center denied the petition, concluding the evidence was insufficient to establish that the position qualified as a specialty occupation under any of the criteria in 8 C.F.R. § 214.2(h)(4)(iii)(A). The matter is now before us on appeal. On appeal, the Petitioner asserts that the Director did not consider all the evidence submitted and held the Petitioner to a higher standard than preponderance of the evidence. We will dismiss the appeal.

U.S. Citizenship and Immigration Services records indicate that the Petitioner filed a subsequent Form I-129, Petition for Nonimmigrant Worker, seeking nonimmigrant H-1B classification on behalf of the Beneficiary and that the petition was approved.

Because the Beneficiary of the instant petition has been approved for H-1B employment with Petitioner, further pursuit of the matter at hand would be moot.

ORDER: The appeal is dismissed.