U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 4810347

Date: JULY 22, 2020

Appeal of Vermont Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker

The Petitioner, an educational services company, seeks to temporarily employ the Beneficiary as a "business and marketing analyst" 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 Director of the Vermont Service Center denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

On the Forms G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, I-290B, Notice of Appeal or Motion, and I-129, Petition for a Nonimmigrant Worker, the Petitioner authorized [redacted], Chief Executive Officer, to sign on its behalf. In reviewing the appeal, we observed that [redacted] signatures, which appeared on numerous documents, differed visibly from one another. We therefore issued a Notice of Intent to Dismiss and Request for Evidence (NOID/RFE) and requested an explanation.

In response, the Petitioner submitted a sworn statement from [redacted], a copy of a document titled "Signing Authority," and a copy of an electronic message from [redacted] to Counsel. First, in the sworn statement, [redacted] attests that, while he personally signed the Form I-290B, he authorized Counsel to personally sign his name, by their hand, on the Forms I-129 and ETA 9035/9035E submitted as, and in support of, the underlying petition. Second, [redacted] further attests that he expressly granted Counsel authorization to sign his name on the Petitioner's documents via the "Signing Authority" document, which was executed in March 2018, and in an electronic message advising Counsel he was out of town and authorizing Counsel to sign on his behalf. As such, [redacted] confirms that he, as a representative of the Petitioner, did not personally sign the underlying Form I-129 petition.

U.S. Citizenship and Immigration Services (USCIS) has issued policy guidance regarding required signatures on petitions. *See* USCIS Policy Memorandum PM-602-0134.1, *Signatures on Paper Applications, Petitions, Requests, and Other Documents Filed with U.S. Citizenship and Immigration Services* (signature memo) (Feb. 15, 2018), https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-02-16-PM-602-0134.1-Signatures-on-Paper-Applications-Petitions-Requests-and-Other-Documents.pdf. The signature memo became effective March 17, 2018, and it rescinded previous USCIS policy allowing for the signing of documents pursuant to Powers of Attorney (POA). While the Petitioner did not indicate that it executed a POA with Counsel, it

submitted a copy of a document titled "Signing Authority," to which it extends similar privileges. The signature memo states, in pertinent part, the following:

> The 2016 interim PM addressed general questions relating to the signature requirement contained in 8 CFR § 103.2(a)(2). One issue addressed by the interim PM involved allowing the signing of documents pursuant to a Power of Attorney (POA) under general agency principles. This final PM removes those provisions. The practice of accepting POA signatures resulted in inconsistent treatment among USCIS officers and offices of petitions that were accompanied by a POA. In addition, the Department of Justice has indicated to USCIS that POAs create an additional evidentiary burden, making it more difficult to litigate or prosecute immigration fraud when the filing is signed and filed by a POA. Upon the effective date of this PM, USCIS will no longer accept documents signed under general agency principles pursuant to a POA. As provided in section V. D of this PM, if a POA is determined to be acceptable for a certain form, its form instructions will be revised to provide the requirements for a POA. As described below, the policy on POAs for individuals and the remaining signature policies for entities remain unchanged.

Immigration law is not the only context within which this logic is followed. For example, in 2015 a federal bankruptcy court stated the following:

> When documents requiring the debtor's original signature are not signed by the debtor, the evidentiary basis for the information in those documents no longer exists. The principal's act of giving the attorney-in-fact the authority to file documents containing facts within the principal's personal knowledge on her behalf does not transfer the principal's knowledge of those facts to the attorney-in-fact. *See In re Harrison*, 158 B.R. 246, 248 (Bankr. M.D.Fla. 1993) ("It takes no elaborate discussion to point out the obvious that no one can grant authority to verify under oath the truthfulness of statements contained in the documents and to verify facts that they are true when the veracity of facts are unique and only within the ken of the declarant."). Thus, even if a power of attorney gives the attorney-in-fact the authority to file documents related to the debtor's bankruptcy proceeding on the debtor's behalf, the attorney-in-fact cannot present these documents to the Court in accordance with Rule 9011 unless there is a separate evidentiary basis for their accuracy.

In re Veluz, No. 14-20101, 2015 WL 161002, at *4 (Bankr. D.New Jersey Jan. 12, 2015). *See also In re Husain*, 533 B.R. 658 (Bankr. N.D.Ill. 2015) ("attorney violated American Bar Association Model Rule prohibiting an attorney from knowingly making a false statement of fact or law to tribunal by filing bankruptcy petitions and other bankruptcy documents which purported to bear his clients' contemporaneous wet-ink signatures, but which were in fact signed by attorney or someone in his office on clients' behalf, even assuming that attorney acted with clients' consent").

Here, the Petitioner filed the Form I-129 44 days after the signature memo's effective date. As such, the Petitioner's reliance on a "Signing Authority" document allowing Counsel to sign [redacted] name on the Petitioner's behalf was not in accordance with USCIS policy.

Without a Form I-129 demonstrated to have been personally signed by an authorized individual on behalf of the petitioning entity, we cannot conclude that Petitioner has properly filed the underlying petition. The appeal must therefore be dismissed.[1]

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.

[1] The signature memo states that "if USCIS accepts a request for adjudication and later determines that it has a deficient signature, USCIS will deny the request."