



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

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

In Re: 9019481

Date: JULY 17, 2020

Appeal of California Service Center Decision

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

The Petitioner, a transportation and logistics services company, seeks to temporarily employ the Beneficiary as a “transportation engineer” under the H-1B nonimmigrant classification for specialty occupations.¹ 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 that the record did not establish that the proffered position qualifies as a specialty occupation. The matter is now before us on appeal.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence.² Upon review of the matter, we will dismiss the appeal.

I. ANALYSIS

We conducted a preliminary review of the record of proceedings.³ We observe that the signatures of the attorney/preparer/representative and of the petitioner/client on the Form I-1290B appear to have been signed by the same individual.⁴ Not only do the signatures, which are initials, appear markedly similar to each other, the signature on behalf of the Petitioner, purported to be [redacted] Chief Financial Officer, appears quite *dissimilar* to other signatures of [redacted] appearing in other parts of the record of proceedings.

Moreover, in the attorney cover letters and the appeal brief, [redacted] stated that she signed on behalf of the attorney of record, [redacted] with permission. We observe that her handwriting from these letters and brief appears to match the handwriting of the initials that appear in the Form I-290B and its accompanying Form G-28. This similarity suggests that she signed on behalf of both the attorney,

¹ Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b)

² Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

³ This decision does not address the Director’s grounds for denial.

⁴ The accompanying Form G-28 also features this discrepancy.

[redacted] and of the Petitioner, under [redacted] Though an attorney/preparer/representative as designated in Part 6 of the Form I-290B may prepare the forms on behalf and at the direction of a petitioner, this does not mean that the attorney/preparer/representative may *sign* in place of a petitioner.⁵

Without knowing who signed the documents we cannot recognize the appeal to have been properly filed by an affected party with legal standing in these proceedings.⁶ To address this concern, we issued a formal Request for Evidence and Notice of Intent to Dismiss (RFE/NOID) on March 11, 2020.⁷ This RFE/NOID provided the Petitioner notice of the concern and requested specific evidence to establish that the appeal was properly filed. Further, the RFE/NOID notified the Petitioner that if we did not receive a response, we may reject the appeal as improperly filed.⁸ The Petitioner provided no response to this RFE/NOID.

In addition to the above, though the Petitioner claimed to have been operating a transportation and logistics services company in Texas since 2011, we were unable to determine whether the Petitioner is an active business in good standing. A search of the Texas Comptroller of Public Accounts and the Texas Secretary website yielded no results for the Petitioner.⁹ As a result, the record of proceeding does not contain evidence demonstrating the Petitioner is active and in good standing with any State. If a petitioner is no longer in business, then no *bona fide* job offer exists to support the petition. The RFE/NOID also notified the Petitioner of this deficiency and provided the Petitioner an opportunity to respond. Because the Petitioner did not respond to the RFE/NOID, it failed to demonstrate by a preponderance of the evidence that its business was registered and in good standing – without interruption – from the filing of the petition through to the present day.

A benefit request may be summarily denied as abandoned, denied based on the record, or denied for both reasons if a petitioner fails to respond to an RFE/NOID by the required date.¹⁰ As further provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the benefit request. Because the record does not establish that the appeal was properly filed by an affected party with legal standing in these proceedings, nor does it establish that the Petitioner is active and in good standing with any State, the appeal will be dismissed.

II. CONCLUSION

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.¹¹ The Petitioner has not met that burden.

⁵ See, e.g., USCIS Policy Memorandum PM-602-0134.1, *Signatures on Paper Applications, Petitions, Requests, and Other Documents Filed with U.S. Citizenship and Immigration Services* (Feb. 15, 2018).

⁶ 8 C.F.R. § 103.3(a)(1)(iii)(B).

⁷ See USCIS Policy Memorandum PM-602-0134.1, which states in pertinent part, that “when USCIS has reason to doubt the veracity of the person's authority to sign or act on behalf of the corporation or other legal entity, it may request evidence that demonstrates the person has the requisite legal authority to sign the request.”

⁸ 8 C.F.R. § 103.3(a)(2)(v). In addition, without knowing who signed the documentation, we cannot determine whether the H-1B petition was properly filed. See generally 8 C.F.R. § 103.2(a).

⁹ See generally <https://www.sos.state.tx.us/> (last visited Jul. 16, 2020).

¹⁰ 8 C.F.R. § 103.2(b)(13)(i).

¹¹ Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The appeal is dismissed.