



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

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

In Re: 28538130

Date: DEC. 06, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a boxing coach, 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 Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner merits, as a matter of discretion, a national interest waiver. The matter is now before us on appeal. 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 remand the matter for further consideration and the entry of a new decision.

At this time, we are unable to address the merits of this case because the record is incomplete. The record reflects that the Director issued a request for evidence (RFE) on August 10, 2022. While the Director acknowledged in the underlying decision that the Petitioner submitted a timely response to the RFE, the Petitioner's original response has not been incorporated into the record of proceeding. We cannot determine whether the Director considered the full RFE response, nor can we base our own decision in this case on an incomplete record.

The Director bears the responsibility of ensuring that the record is complete and contains all evidence that has been submitted by a petitioner or considered by U.S. Citizenship and Immigration Services in reaching its decision. *See* 8 C.F.R. § 103.2(b)(1); cf. *Matter of Gibson*, 16 I&N Dec. 58, 59 (BIA 1976). Accordingly, we will withdraw the Director's decision and remand this matter for the inclusion of the missing record materials and further consideration.<sup>1</sup>

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<sup>1</sup> The Director's decision did not consider the Petitioner's eligibility for the EB-2 immigrant classification as a member of the professions holding an advanced degree or an individual of exceptional ability. On remand, the Director should consider whether the Petitioner qualifies for the underlying classification and provide an analysis when issuing the new decision.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.