



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

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

In Re: 5484989

Date: MAY 13, 2022

Certification of California Service Center Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

The Petitioner, a foreign investor, filed his Form I-526, Immigrant Petition by Alien Entrepreneur, in August 2015. The Chief of the Immigrant Investor Program Office approved the petition in January 2017. In February 2019, the Director of the California Service Center issued a notice of intent to revoke (NOIR) the Petitioner's approved Form I-526. After receiving a response, the Director concluded that the Petitioner was not eligible for the benefit sought, then certified the matter to us.

The regulation at 8 C.F.R. § 103.4(a)(1) states that the Director may certify a case to the appropriate appellate authority "when the case involves an unusually complex or novel issue of law or fact." Here, the Director has not identified such an issue, as the facts of this case fall under a binding precedent decision. *See Matter of Christos*, 26 I&N Dec. 537 (AAO 2015). As a published precedent, the decision is binding on all USCIS employees in proceedings involving the same issues. *See* 8 C.F.R. § 103.3(c). While the Director appears to invite the AAO to revisit or distinguish the reasoning of that precedent, we decline to do so in this case.

However, after the Director certified the matter for review, the Board of Immigration Appeals published a series of precedent decisions that address section 204(c) of the Act, including one that distinguished *Matter of Christos*. *See Matter of R.I. Ortega*, 28 I&N Dec. 9, 15 (BIA 2020) ("*Matter of Christos, Inc.*, is a narrow decision that only applies to situations where the beneficiary 'never met or married' the petitioner."); *see also Matter of Pak*, 28 I&N Dec. 113 (BIA 2020); *Matter of P. Singh*, 27 I&N Dec. 598 (BIA 2019). While these decisions may impact the Director's decision, we do not reach that question here so that the Director may address these issues in the first instance and, to preserve all aspects of procedural due process, consider issuing a new NOIR.

Additionally, the AAO's review of the record raises other eligibility concerns not identified by the Director in the initial NOIR. *See* 8 C.F.R. § 204.6(j)(2) (stating that evidence of mere intent to invest, or of prospective investment arrangements entailing no present commitment, will not suffice to show that the petitioner is in the process of investing); *see also* 8 C.F.R. § 204.6(j)(3) (requiring evidence to demonstrate lawful source of funds). The Director may elect to consult with the Chief of the Immigrant Investor Program office and, if necessary, address these issues in a new NOIR, as well.

Given the intervening caselaw and the additional issues noted on certification, we conclude a remand is appropriate. Upon remand, the Director should fully consider the new precedents and the additional eligibility issues addressed in this decision. If a new NOIR is to be issued, the Director should allow the Petitioner an opportunity to submit additional briefing and rebuttal evidence in support of the petition. *See* 8 C.F.R. § 205.2(b).

Accordingly, the record will be remanded to the Director for further proceedings and for the entry of a new decision.

**ORDER:** The certification is remanded, and the matter is returned to the Director.