ADMINISTRATIVE APPEALS OFFICE, U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Matter of Texperts, Inc.

29 I&N Dec. 491 (AAO 2026) (Interim Decision #4169) · No. 72372334 · Decided March 6, 2026

SUMMARY

The Administrative Appeals Office held that USCIS may make findings of fraud or willful misrepresentation of material fact relevant to future immigration benefits after a petitioner withdraws a visa petition, although the petition may not be denied on the merits after withdrawal. The Director must provide specific reasons supported by record evidence and analyze the applicable elements of fraud or willful misrepresentation. The AAO withdrew the Director's fraud finding and remanded for further proceedings while maintaining the petition's withdrawn status.

CASE DETAILS

COURT	Administrative Appeals Office, U.S. Citizenship and Immigration Services
JURISDICTION	Administrative Appeals Office, U.S. Citizenship and Immigration Services
DECIDED	March 6, 2026
DOCKET	72372334
DISPOSITION	remanded
PROCEDURAL POSTURE	Administrative appeal from a USCIS Director's finding of fraud after the petitioner withdrew an H-1B visa petition.
STANDARD OF REVIEW	The AAO reviewed the questions de novo. The petitioner bore the burden of proving eligibility by a preponderance of the evidence.
PRECEDENTIAL VALUE	Published precedential AAO decision; Interim Decision #4169.
PARTIES	Texperts, Inc.

TOPICS

visa petitions · immigration · agency adjudication · appellate procedure · standard of review

PRACTICE AREAS

immigration law · administrative law · agency adjudication · appellate procedure

QUESTIONS PRESENTED

1. Whether the AAO had jurisdiction to review a Director's adverse finding of fraud after the petitioner withdrew the visa petition.
2. Whether withdrawal of a visa petition precludes USCIS from making factual findings concerning fraud or willful misrepresentation of material fact relevant to future immigration benefits.
3. Whether the Director adequately analyzed and explained the elements of fraud or willful misrepresentation of material fact.
4. What proceedings were appropriate after the petition was withdrawn and the Director's fraud finding was found inadequate.

HOLDINGS

1. Although a withdrawn visa petition may not be denied on its merits, USCIS may make findings of fact relevant to future benefit requests, including findings regarding fraud or willful misrepresentation of material fact.
2. A finding of fraud or willful material misrepresentation preserved for use in future immigration proceedings must satisfy the legal standards applicable to inadmissibility determinations under INA section 212(a)(6)(C)(i). Fraud requires a willful, material misrepresentation made with intent to deceive, believed and acted upon by the deceived party to that party's disadvantage; willful material misrepresentation does not require intent to deceive but must otherwise be willful and material.
3. The Director must provide specific reasons, supported by the record, that establish a rational connection between the evidence and the particular elements of fraud or willful material misrepresentation. The Director's failure to identify which theory applied and to analyze its elements rendered the finding inadequate.

KEY QUOTATIONS

> "*While a visa petition may not be denied on the merits following a withdrawal, an officer is permitted to make findings of fact relevant to future benefit requests, including findings regarding fraud or willful misrepresentation of material fact.*" (491)

> "*The Director must provide the specific reasons, supported by evidence in the record, to make a finding of fraud or willful misrepresentation of material fact.*" (491)

> "*The terms "fraud" and "misrepresentation" are not synonyms and should always be employed with specificity.*" (496)

> "*However, the petition itself shall remain withdrawn.*" (498)

FACTUAL BACKGROUND

Texperts, an information technology staffing company, sought to employ a database administrator under the H-1B specialty-occupation classification. USCIS determined that Texperts and ConquerTech Innovations, LLC may have worked together to submit multiple H-1B registrations for the same beneficiary to unfairly increase the chance of selection, based on shared IP address, common ownership and management, the same human-resources manager, and substantially identical employment-offer documents. After receiving a notice of intent to deny, Texperts withdrew the petition but challenged the proposed fraud findings, and the Director acknowledged the withdrawal while finding that Texperts had committed fraud.

PROCEDURAL HISTORY

Texperts, Inc. filed an H-1B cap-subject petition after its registration was selected in the lottery. The Director issued a notice of intent to deny based on suspected collusion and fraud or material misrepresentation, and the petitioner withdrew the petition while attempting to rebut the proposed findings. The Director acknowledged the withdrawal but separately found that the petitioner had perpetrated fraud. The AAO exercised jurisdiction over the adverse fraud finding, withdrew that finding, and remanded for further proceedings and a new acknowledgment of withdrawal containing a sufficiently specific finding, if warranted.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Director's fraud finding is withdrawn. The Director may reissue an acknowledgment of withdrawal containing specific findings of fact and a new articulation of fraud or willful material misrepresentation consistent with the opinion, and may consider additional matters appropriate under the INA and regulations. The petition itself must remain withdrawn.

CASES CITED

- Matter of Cintron, 16 I&N Dec. 9 (BIA 1976)
- Kungys v. United States, 485 U.S. 759, 771-72 (1988)
- Matter of Chawathe, 25 I&N Dec. 369, 375-76 (AAO 2010)
- Matter of Christo's, Inc., 26 I&N Dec. 537, 537 n.2 (AAO 2015)
- USV Pharm. Corp. v. Sec'y of Health, Educ. & Welfare, 466 F.2d 455, 462 (D.C. Cir. 1972)
- United States v. Patnaik, 125 F.4th 1223 (9th Cir. 2025)
- Manney v. U.S. DHS, 735 F. Supp. 3d 590, 594, 600 (E.D. Pa. 2024)
- Matter of Namio, 14 I&N Dec. 412, 414 (BIA 1973)
- Matter of Y-G-, 20 I&N Dec. 794, 796 (BIA 1994)
- Matter of G-G-, 7 I&N Dec. 161, 164 (BIA 1956)
- Sorenson v. Sec'y of Treasury of U.S., 475 U.S. 851, 860 (1986)
- Matter of A.J. Valdez and Z. Valdez, 27 I&N Dec. 496, 498 (BIA 2018)
- Matter of Mensah, 28 I&N Dec. 288, 293-94 (BIA 2021)
- Matter of D-R-, 27 I&N Dec. 105, 113 (BIA 2017)
- Ortiz-Bouchet v. U.S. Att'y Gen., 714 F.3d 1353, 1356-57 (11th Cir. 2013)

- Parlak v. Holder, 578 F.3d 457, 463 (6th Cir. 2009)
- Matter of Air India "Flight No. 101," 21 I&N Dec. 890, 892 (BIA 1997)
- Earth Island Inst. v. U.S. Forest Serv., 442 F.3d 1147, 1156-57 (9th Cir. 2006)
- Matter of R-K-K-, 26 I&N Dec. 658 (BIA 2015)
- Matter of Patel, 16 I&N Dec. 600, 601 (BIA 1978)