U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37097005

Date: APR. 4, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a civil engineer, 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 Texas Service Center denied the petition, concluding that although the Petitioner demonstrated his eligibility for the requested EB-2 classification, the record did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal pursuant to 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). While we conduct de novo review on appeal, *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that a remand is warranted in this case because the Director's decision is insufficient for review. Specifically, the decision lacks analysis and discussion of the evidence in the record and reaches conclusory findings with respect to the Petitioner's eligibility for the requested national interest waiver. Accordingly, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

In applying the *Dhanasar* framework, the Director concluded that the Petitioner had not established his proposed endeavor's national importance or that on balance it would be beneficial to the United States to waive the job offer requirements. On appeal, the Petitioner contends that the Director did not adequately discuss the evidence or explain the rationale underlying their determination. We agree.

An officer must fully explain the reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(i). This explanation should be sufficient to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See, e.g., Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). The Director's decision did not meet these requirements.

With regard to the proposed endeavor, the Director noted that the Petitioner intends to work as a civil engineer and briefly quoted from "a statement" in the record describing his current research work for his employer. The Director then determined that, while the proposed endeavor had substantial merit, it did not have national importance.

The Director's decision, however, did not meaningfully address or analyze any of the Petitioner's evidence. Instead, the Director broadly concluded that the record did not support the Petitioner's claims of potential prospective impact to establish his endeavor's national importance. For example, while the Director found that the "record does not demonstrate how the proposed endeavor stands to affect or advance the broader industry of civil engineering, or that it otherwise has wider implications in the field of civil engineering," and that the "record does not show that the prospective impact of the proposed endeavor has implications beyond the company's clients and future employees," the decision does not explain how the Director reached these conclusions.

The Petitioner also asserts on appeal that the Director's decision confused and conflated his current employment with his proposed endeavor. The Petitioner correctly notes that the Director's decision quotes from [redacted] employment letter describing the Petitioner's current research at the [redacted] instead of from the Petitioner's own statements describing his proposed endeavor. We recognize that some of the activities described by [redacted] may overlap with the Petitioner's proposed endeavor. However, because *Dhanasar's* first prong is focused on the specific endeavor itself, it is imperative that the endeavor is accurately described to conduct a meaningful analysis of its claimed national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889.

While the evidence of record ultimately may be insufficient to demonstrate the national importance of the proposed endeavor, the Director's determination that the Petitioner did not satisfy the first prong was largely conclusory, did not adequately describe the proposed endeavor, did not adequately address the evidence and arguments submitted, and therefore did not sufficiently explain the reasons for denial.

Because a new first-line adjudication of *Dhanasar's* first prong is required, we are unable to meaningfully conduct a review of the second and third prongs at this time. For the above reasons, we will withdraw the Director's decision and remand this matter for further consideration and entry of a new decision. On remand, the Director should review the entire record, including the Petitioner's appeal, and determine whether he has established eligibility under the three *Dhanasar* prongs. If the Director concludes that the Petitioner's evidence does not meet a specific eligibility requirement, the decision should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility. In remanding, we express no opinion as to the ultimate resolution of this case.

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