U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30776343

Date: APR. 12, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a business administrator, 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 EB-2 immigrant 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 the Petitioner established her eligibility for EB-2 classification as an advanced degree professional, but did not demonstrate that she qualifies for the requested national interest waiver. We dismissed a subsequent appeal. The matter is now before us on motion to reconsider.

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). Upon review, we will dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In our decision dismissing the appeal, we addressed the Petitioner's request for a national interest waiver and the Director's adjudication of that request under the three-prong adjudicatory framework established by *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). We agreed with the Director's determination that the Petitioner had substantially revised the nature of her intended proposed endeavor when responding to a request for evidence (RFE). Nevertheless, we considered all relevant evidence (including evidence she submitted in response to the RFE and a subsequent notice of intent to deny) in evaluating whether the Petitioner demonstrated that her proposed endeavor in the United States has both substantial merit and national importance, as required under *Dhanasar*'s first prong. We provided a multi-page analysis of the Petitioner's evidence and concluded that she did not establish the national importance of her proposed endeavor. While we acknowledged that the Petitioner cited information regarding the overall benefits and importance of small businesses, job creation, and

management training, we concluded that she neither explained nor demonstrated how her specific proposed endeavor would have national importance within those contexts. We reserved discussion of the remaining two prongs under the *Dhanasar* framework, noting that she could not qualify for a national interest waiver without meeting the first prong.

On motion, the Petitioner generally contests the correctness of our prior decision. However, she does not directly address the specific conclusions we reached in determining that she did not establish the national importance of the proposed endeavor. The Petitioner asserts that we erroneously agreed with the Director's conclusion that she had substantially changed her proposed endeavor, but in doing so she repeats arguments that we already addressed in our prior decision. Further, as noted, our decision to dismiss the appeal did not rest solely on a determination that the Petitioner had changed her proposed endeavor after the filing of the petition. Rather, our evaluation of her eligibility under the first prong of the *Dhanasar* framework considered evidence related to the entrepreneurial endeavor she described in response to the Director's RFE and notice of intent to deny.

In her brief on motion, the Petitioner reasserts her intention to operate her own management consulting business and summarizes "some reasons why management consultant businesses are of national importance in the USA," in terms of supporting small and medium-sized enterprises, encouraging economic stability and growth, driving innovation, and creating jobs. She contends that her endeavor "like so many other small businesses, [will] continue to America continuing to grow and prosper." The Petitioner further asserts that her intention to assist other companies in implementing proper management tools "will promote and protect the health of the local economy" and "improve the quality of the management of businesses everywhere." Finally, the Petitioner states that her expertise in business management, combined with her Brazilian heritage, will have positive social and economic impacts within U.S.-based Hispanic and Brazilian entrepreneur communities, will "help to uplift these communities, and will "pave the way for a more inclusive and equitable society."

The Petitioner's assertions on motion, like those made earlier in these proceedings, focus primarily on the benefits and importance of the management consulting industry and the critical contributions of small businesses to the U.S. economy. The Petitioner emphasizes that the management consulting industry positively impacts U.S. businesses, consumers, and the economy; however, simply expressing an intent to starting a small business in the management consulting field is insufficient to demonstrate the national importance required for a national interest waiver. Our focus in considering national importance is not on the industry itself; instead, we focus on "the specific endeavor that the foreign national proposed to undertake." *Dhanasar*, 26 I&N Dec. at 889. In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects." *Id.* at 890.

Although the Petitioner maintains that her proposed endeavor will have indirect implications that will "improve the quality of the management of businesses everywhere," "positively affect the general economy," and "pave the way for a more inclusive and equitable society," she has not offered an evidentiary basis to support these broad assertions regarding the potential indirect economic and social impacts of her specific proposed endeavor. These claims are comparable to those she made earlier in

the proceeding, which were similarly lacking evidentiary support. As noted by the Director, and affirmed in our prior decision, the record does not show that the impact of her specific proposed endeavor stands to sufficiently extend beyond her own company and its clientele to impact her field or industry, the U.S. economy, or societal welfare at a level commensurate with national importance.

On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.