U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37095517

Date: APR. 21, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a strategic project manager, 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 the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree, but had not established 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). 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 dismiss the appeal.

I. LAW

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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

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

Id.

II. ANALYSIS

A. EB-2 Visa Classification

As indicated above, the Petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. The Director determined that the Petitioner is a member of the professions holding an advanced degree. However, upon de novo review, we disagree.

The record includes a copy of the Petitioner's foreign certificate and transcript, along with certified translations, from the [redacted] in Brazil for completing a *latu sensu* specialization course in project management.[2] According to the American Association of Collegiate Registrars and Admissions Officers' (AACRAO) Electronic Database for Global Education (EDGE), *latu sensu* programs are for professional development and specialization, and lead toward professional certificates instead of graduate degrees.[3] Therefore, a *lato sensu* certificate is not the foreign degree equivalent of a U.S. master's degree.

In addition, the Petitioner submitted copy of her diploma for the *Título de Bacharel* in information systems and her transcript, along with certified translations, from the [redacted] in Brazil. Notably, the transcript only shows one academic year and notes that the Petitioner was a transfer from another institution. However, the Petitioner has not provided the transcripts from this other institution to demonstrate she has completed four years of undergraduate studies. And while we acknowledge the submission of a credential evaluation, the evaluator appears to have made the determination that the Petitioner has the equivalent of a U.S. bachelor's degree based on the issuance of a diploma, rather than a combination of examination of the degree and the Petitioner's transcripts. Absent the transcripts of the Petitioner's undergraduate degree demonstrating four years of study, she has not established that she received a degree equivalent to a U.S. bachelor's degree. *See* 8 C.F.R. § 204.5(k)(3) (requiring the submission of an official academic record).

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[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).

[2] The Director's decision referred to the Petitioner's *latu sensu* as an "Executive MBA."

[3] We consider EDGE to be a reliable source of information about foreign credential equivalencies. *See Confluence Intern., Inc. v. Holder,* Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). *See also Viraj, LLC v. Holder,* No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013). For more information, visit https://www.aacrao.org/edge.

For the above reasons, the Petitioner has not established by a preponderance of the evidence that she is a member of the professions holding an advanced degree and we withdraw the Director's determination on this issue.

B. National Interest Waiver

The Petitioner's proposed endeavor is to continue her career as a strategic project manager. She states that she has been offered a position as a project manager and financial process manager at a company in [redacted] Florida.

Turning to the first *Dhanasar* prong, the Director determined that, although the Petitioner's proposed endeavor has substantial merit, she did not establish her endeavor is of national importance. Specifically, the Director concluded that the proposed endeavor would not have broader implications beyond the business, its employees and clients, and any individuals and entities with whom the Petitioner would work, to impact the field, industry, or the economy more broadly at a level commensurate with national importance.

On appeal, the Petitioner contends the Director erred in finding that her proposed endeavor would not have national importance. She asserts she provided sufficient evidence to establish the proposed endeavor's national importance, including professional plans and a statement "presenting her proposed endeavor in clear detail and how she will apply her proposed endeavor and outstanding qualification in Project Management, Technology and Systems Analysis in detail; among other evidence." She also continues to highlight the importance of digital transformation and asserts that her endeavor will increase revenue, job creation, and market competitiveness in the United States. The Petitioner submits the same professional plan and statement she provided in response to the Director's request for evidence (RFE), about which the Director noted that the "professional plan lacks sufficient detail in order to establish a connection between her proposed endeavor activities and the positive effects on the economy and job creation impacts she claims." The Director also acknowledged the Petitioner's claim that she previously created 5,875 new temporary jobs and that her project management methods contributed to an 82.53% increase in revenue growth. However, the Director stated that "[t]o evaluate the claim that the proposed endeavor will have a multiplier effect, the [P]etitioner must provide more specific information or evidence." Here, the Petitioner does not provide any new evidence or arguments which overcome the Director's determination.[4]

Thus, regarding the issue of whether the Petitioner's proposed endeavor has national importance, we adopt and affirm the Director's decision with the comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

[4] The record includes an expert opinion letter from a senior technical manager in Switzerland. However, the Director determined the letter was dated after the filing of the petition and that it would not be considered. On appeal, the Petitioner does not contest the Director's determination. Therefore, we deem this matter waived. An issue not raised on appeal is waived. *See. e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 657, n.2 (BIA 2012)); *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n.2 (11th Cir. 2005) (concluding that when an appellant fails to address or offer an argument on an issue, that issue is waived).

As a general matter, an appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(1)(v). Here, the Petitioner continues to argue the national importance of her proposed endeavor and that it would impact her industry more broadly, but she does not explain why we should find these claims any more persuasive than the Director did. Upon review of the record, we agree with the Director that the submitted evidence, including the Petitioner's professional plans and statement, job experience and skills, and industry reports and articles, do not establish the national importance of her proposed endeavor to work as a strategic project manager.

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address her eligibility under the remaining prongs, and we hereby reserve them. *See INS v. Bagamasbad,* 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. The burden of proof is on the Petitioner to establish that she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that she has not established eligibility for a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.