U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30634432

Date: AUG. 13, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an information security analyst, 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 the record did not establish that the Petitioner qualifies for EB-classification nor are they eligible for a national interest waiver as a matter of discretion. 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. 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. 8 C.F.R. § 204.5(k)(2).

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. While neither the statute nor the pertinent regulations define the term "national interest," *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.

Dhanasar, 26 I&N Dec. at 889.

II. ELIGIBILITY FOR EB-2 CLASSIFICATION

The Petitioner contends on appeal that the Director did not apply the proper standard of proof, instead imposing a stricter standard, and erroneously applying the law. She asserts the Director did not give "due regard" to the evidence submitted, specifically: the resume outlining her experience; the business plan describing her professional credentials, expertise, and accomplishments; evidence of her work in the field; letters of recommendation; and industry reports and articles showing the national importance of the proposed endeavor and the shortage of professionals with her profile in the field. Upon de novo review, we conclude that the Director properly analyzed the evidence to evaluate the Petitioner's eligibility by a preponderance of evidence and the Petitioner did not demonstrate that she is eligible for EB-2 classification, as addressed below. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

A. Individual of Exceptional Ability

In denying the petition, the Director determined that the Petitioner met only two of the requisite three criteria at 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F), and therefore, she did not establish her eligibility for the EB-2 classification as an individual of exceptional ability. On appeal, the Petitioner does not address the Director's conclusion that she did not qualify as an individual of exceptional ability. Therefore, we consider this issue waived on appeal. *See Matter of R-A-M-,* 25 I&N Dec. 657, 658 n.2 (BIA 2012), (stating that when a filing party fails to appeal an issue addressed in an adverse decision, that issue is waived). *See also, e.g., Matter of M-A-S-,* 24 I&N Dec. 762, 767 n.2 (BIA 2009).

B. Advanced Degree Professional

The Director also concluded that the Petitioner did not establish she is eligible for EB-2 classification as a member of the professions holding an advanced degree. On appeal, the Petitioner contends that she holds a "Bachelor's Degree in Technology and Data Processing from [redacted] and a Master's Degree in MBA from [redacted]

The record, however, does not include sufficient evidence to establish that the Petitioner's degree is the equivalent of a U.S. bachelor's degree. The credential evaluation of the Petitioner's training, education, and experience states that, "[i]n 1994, she completed examinations and was awarded a Bachelor's degree in Data Processing. The diploma demonstrates that she completed her four-year course of studies at [redacted] However, this statement is contradicted by the record.

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

The record contains a diploma granting the Petitioner, "*Titulo de Tecnólogo em Processamento de Dados*," which translates to, "Title of Technologist in Data Processing." We reviewed the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE). According to EDGE, the diploma represents attainment of a level of education comparable to completion of a vocational or other specialized high school curriculum in the United States. 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). *See* https://www.aacrao.org/edge/country/paraguay for information regarding the education system in Paraguay. The record also contains transcripts of her course work to earn this title, which shows that she completed her courses from 1992 to 1994, which amounts to 3 years of school, and does not establish that it is equivalent to a U.S. bachelor's degree. Therefore, the record does not establish that the Petitioner holds the foreign equivalent to a U.S. bachelor's degree.

The Petitioner also contends that she holds a "Master's Degree in MBA." The record contains a "Declaration of Participation" for completing a graduate course for, "Specialist- MBA, in Project Management." The credential evaluation states that this is the equivalent of a "advanced degree in project management," however, it did not state that this was the equivalent of a master's degree as the Petitioner claims. Here, the record does not establish the Petitioner earned the foreign equivalent of a bachelor's degree and the record does not establish that the additional course is the U.S. equivalent of a master's degree. On appeal, the Petitioner highlights that she has over 25 years of experience in the field. While we acknowledge her experience, the regulation at 8 C.F.R. § 204.5(k)(2) does not provide for a substitution of training or experience to be considered as the equivalent of a bachelor's degree; both section 203(b)(2)(A) of the Act and the regulation contemplate only a single degree, not a combination of education and experience claimed as the equivalent, in aggregate, of a degree. Credential evaluations are reviewed for advisory purposes only; if questionable in any way, USCIS may give them less weight. *See Matter of Caron Int'l, Inc.,* 19 I&N Dec. 791, 795 (Comm. 1988). Because the credibility of the credential evaluation is in question, we conclude that it holds little probative value in this matter. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376.

In summation, the record does not establish the Petitioner qualifies as a member of the professions holding an advanced degree. *See* section 203(b)(2)(A) of the Act. We reserve our opinion regarding whether the record satisfies the criteria set forth in the precedent decision *Matter of Dhanasar,* 26 I&N Dec. 884 (AAO 2016). *See INS v. Bagamasbad,* 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-,* 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The record does not establish that the Petitioner qualifies for second-preference classification either as a member of the professions holding an advanced degree or, in the alternative, as an individual of exceptional ability as that matter has been waived; therefore, we conclude that the Petitioner has not established eligibility for the immigration benefit sought.

ORDER: The appeal is dismissed.