U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32463577

Date: AUG. 15, 2024

Appeal of Texas Service Center Decision

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

The Petitioner 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 established she was an advanced degree professional but had not demonstrated that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. Applying the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), the Director concluded that the Petitioner established the substantial merit of her proposed endeavor and demonstrated she is well-positioned to advance it. However, the Director determined the Petitioner did not establish the national importance of the endeavor and that, on balance, waiving the job offer requirement would benefit the United States. 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.

The Petitioner proposes to work as an electrical project engineer, where she will "direct and advise engineering activities, particularly in the manufacturing sector, in order to reduce costs, create jobs, and increase profitability." The Director summarized the evidence and analyzed why it did not establish the Petitioner's eligibility for a national interest waiver.

On appeal, the Petitioner submits a brief in which she generally asserts that the Director imposed "novel substantive and evidentiary requirements" and a stricter standard of proof than that of a preponderance of the evidence. However, she does not elaborate on these claims or point to specific instances where the Director applied novel requirements or an incorrect standard of proof. Additionally, with respect to the first prong of the *Dhanasar* framework, the Petitioner contends the Director "did not give due regard" to the evidence submitted, suggesting that the Director did not properly weigh her previously submitted resume, professional plan, evidence of her work in the field,

letters of recommendation, and industry reports and articles regarding the electrical engineering industry. The Petitioner's brief emphasizes her qualifications and extensive experience as an electrical engineer, the valuable role immigrant entrepreneurs play in the U.S. economy, and the shortage of qualified professionals in the field amidst an increasing demand for electricians.

Upon review of the entire record, we adopt and affirm the Director's decision regarding the Petitioner's eligibility under *Dhanasar's* first prong. *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 has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

We agree with the Director's well-reasoned decision that the Petitioner does not qualify for a national interest waiver. The Petitioner claims her proposed endeavor's beneficial impacts would include, generally, job creation in underutilized areas, improved wages and working conditions for U.S. workers, increased revenue to the region, assistance bringing investments to the area, and help addressing the shortage of industry professionals. However, the record does not adequately demonstrate that these benefits, even if realized, would impact the industry beyond the Petitioner's employer or clients utilizing her services. The record does not adequately show that the Petitioner's proposed work offers broader implications in her industry or other substantial positive economic effects for our nation that rise to the level of national importance.

Furthermore, while she claims her expertise will help the United States remain competitive, the Petitioner's education, skills, knowledge, and record of success are considerations when analyzing *Dhanasar's* second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar*, 26 I&N Dec. at 890. The first prong's focus is whether the Petitioner has demonstrated the national importance of the proposed endeavor itself, which she has not done. Likewise, although the Petitioner provided industry reports and articles on various topics including the electrical engineering industry and the role immigrants play in the U.S. economy, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, the focus is on "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Accordingly, the Petitioner's reliance on background information and statistics concerning immigrant entrepreneurs and the industry in her appellate brief is not persuasive.

Because the Petitioner did not establish her proposed endeavor's national importance as required by *Dhanasar's* first prong, she has not demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the second and third prongs, therefore, would serve no meaningful purpose.[1]

ORDER: The appeal is dismissed.

[1] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.").