U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32290050

Date: AUG. 26, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a mechanical engineer, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 Nebraska Service Center denied the petition, concluding that 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). 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 Director determined that, despite qualifying for the underlying EB-2 classification as a member of the professions holding an advanced degree, the Petitioner did not establish he is eligible for, and merits as a matter of discretion, a national interest waiver. Applying the three-prong analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), the Director determined the Petitioner did not sufficiently identify his proposed endeavor and, ultimately, concluded that the Petitioner: (1) did not establish that his endeavor has substantial merit and national importance, (2) did not demonstrate that he is well-positioned to advance the endeavor, and (3) did not show that on balance, waiving the job offer requirement would benefit the United States.

On appeal, the Petitioner does not specifically address the Director's grounds for denial and, instead, submits a lengthy brief reiterating the same arguments and evidence already on record.[1] And though the Petitioner generally contends that the Director "arbitrarily and capriciously overlooked" evidence, he does not point to specific examples of where or how the Director failed to adequately consider his evidence.

[1] The Petitioner attached additional articles to his brief, but these documents were already contained in the record.

Upon review of the entire record, we adopt and affirm the Director's decision. *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).

The Director thoroughly reviewed, discussed, and analyzed the record. We agree with them. As the Director noted, the Petitioner's description of his proposed endeavor was vague. His initial filing stated: "[The Petitioner] intends to continue contributing to the design and development of advanced technologies with a variety of applications in building operations, building intelligence systems, and energy-smart building systems. His work involves harvesting and analyzing data from companies' environments to provide solutions to save energy, improve comfort, and increase reliability." Even though the record has now been supplemented twice—via the RFE response and now again on appeal—we still have little additional idea of what the Petitioner is actually proposing to do.

For example, the Petitioner has provided little detail about the specific activities he intends to undertake. The record lacks detailed evidence regarding the Petitioner's planned projects or any other meaningful information about his endeavor. And the Petitioner's evidence, which largely consists of industry articles and reports to support his claim, does little to cure that deficiency because it does not reference the Petitioner, his work, or his proposed endeavor. Simply showing that he is working in an important field is insufficient to establish his proposed endeavor's national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889 (stating that the first prong's focus is on "the specific endeavor that the foreign national proposes to undertake").

We agree with the Director that the record lacks adequate information to establish that the Petitioner's proposed endeavor has implications at a level sufficient to establish its substantial merit or national importance. Nor has he demonstrated that he is well-positioned to advance the proposed endeavor and that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, particularly where, as here, he has not adequately articulated what his endeavor actually is and how he plans to accomplish it.

It is the Petitioner's burden of proof to prove by a preponderance of the evidence that he is qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 375. As the Petitioner has not sufficiently overcome the eligibility issues in the Director's decision, the petition will remain denied.

ORDER: The appeal is dismissed.