U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37043070

Date: FEB. 21, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a business and hospitality management specialist, 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 Nebraska Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but that the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal. The matter is now before us on a motion to reconsider.

I. LAW

A motion to reconsider must: (1) state the reasons for reconsideration, (2) be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy, and (3) establish that the decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). A motion to reconsider that does not satisfy these requirements must be dismissed. 8 C.F.R. § 103.5(a)(4). A motion to reconsider must state the reasons for reconsideration and that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy. 8 C.F.R. § 103.5(a)(3). The Board of Immigration Appeals generally requires that a motion to reconsider assert an error was made at the time of the previous decision. The very nature of a motion to reconsider is the claim that the original decision was defective in some regard. *See Matter of O-S-G-*, 24 I&N Dec. 56, 57 (BIA 2006).

To establish eligibility for a national interest waiver, petitioners must 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. In addition, petitioners must show the merit of 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 that USCIS may, as matter of discretion,[1] grant a national interest waiver if:

- The proposed endeavor has both substantial merit and national importance,
- The individual is well-positioned to advance the proposed endeavor, and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

In our prior decision we noted that the Petitioner's references to her prior academic and employment experience were material to the second *Dhanasar* prong—whether an individual is well positioned to advance a proposed endeavor. *Matter of Dhanasar*, 26 I&N Dec. 888 - 891 (AAO 2016). Because although the Petitioner had an advanced degree, an individual's prior academic and employment experience are immaterial to the issue of whether the potential prospective impact of the specific endeavor an individual proposes to undertake may have broader implications indicative of national importance, as required by the first *Dhanasar* prong. *See id.* On motion, the Petitioner still has not established the national importance of her endeavor.

The Petitioner previously stated that, despite her prior references to consultancy and entrepreneurship, "her intent is not to pursue an entrepreneurial venture but to contribute as a subject matter expert within established hospitality organizations." She generally reasserted on appeal that her "proposed endeavor aims at repositioning the U.S. hospitality industry, making it more robust, adaptable, and primed for growth in the post-pandemic era." However, we explained that in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on "the specific endeavor that the [noncitizen] proposes to undertake" and "we consider its potential prospective impact," looking for "broader implications." *Id.* at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or those with "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90. On motion, the Petitioner asserts that a more accurate characterization of her endeavor would be a Tourism and Hospitality Management Specialist focused on enhancing industry practices in the U.S. through innovative solutions. Therefore, the Petitioner asserts that she does not intend to engage in entrepreneurship but to contribute as a subject matter expert within established hospitality organizations. She further explains that her references to "entrepreneurial spirit" and "entrepreneurship and innovation" within her statements described her approach and mindset in driving growth and progress within her field, rather than indicating a self-employment or entrepreneurial pursuit. Regardless, on motion, the record does not show through supporting documentation how her endeavor sufficiently extends beyond her prospective employers or clients, to impact the field or the U.S. economy more broadly at a level commensurate with national importance. Moreover, without evidence regarding any projected U.S. economic impact or job creation attributable

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

to her particular future work, the record does not show any benefits to the U.S. regional or national economy resulting from her services would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

Below we explained that the generalized "articles and reports" submitted by the Petitioner did not address the specific endeavor she proposed to undertake, and how the potential prospective impact of the specific endeavor she proposed may have broader implications indicative of national importance. *See id.* at 889-90. For example, the generalized information in the record regarding the hospitality industry and business administration did not discuss how the specific endeavor the Petitioner proposed to undertake could have significant potential to employ U.S. workers or other substantial positive economic effects. *See id.* On motion the Petitioner argues that we contradicted *Dhanasar* because *Dhanasar* holds that, "[e]vidence that the endeavor has the potential to create a significant economic impact . . . is not required." However, there is a qualifying caveat to that premise because as *Dhanasar* further states, "an endeavor's merit may be established without immediate or quantifiable economic impact." However, this depends on the endeavor. And *Dhanasar* provides examples of such an endeavor as follows, ". . . endeavors related to research, pure science, and the furtherance of human knowledge may qualify." Here, the Petitioner's proposed endeavor does not meet that criterion.

We noted that the opinion letters in the record referenced by the Petitioner on appeal contained conclusory statements serving as section headers, such as "[The Petitioner's] Endeavor Is Of Substantial Merit And National Importance," and "[The Petitioner's] Endeavor Has A National And Even Global Impact." However, despite referencing the Petitioner in the section headers, the substance of both opinion letters' bodies did not support the conclusory statements serving as section headers. Rather, the opinion letters discussed generalized information regarding "the economic impact of the travel and tourism industry," "[t]he primary way e-commerce will affect the economy," "the hospitality industry as a whole," "the hospitality sector," "the lodging sector," and similarly broad topics, but did not focus on the specific endeavor she proposed to undertake. The opinion letters did not specifically address how the Petitioner's proposed endeavor could have national or even global implications within the field of hospitality or any other field, significant potential to employ U.S. workers or other substantial positive economic effects, or other indicia of national importance, as contemplated by the first *Dhanasar* prong. *See id.* On motion, the Petitioner contends that we applied a level of scrutiny that exceeds the required standard, and that we erred by minimizing the weight of the two expert opinion letters. We disagree. Because the opinion letters did not support the conclusory statements with supporting information material to the issue of whether the specific endeavor the Petitioner proposed to undertake could have the type of broader implications indicative of national importance, they did not support the conclusion that the proposed endeavor could have national importance, as contemplated by the first *Dhanasar* prong.

Below, the record did not establish the "established hospitality organizations" within which the Petitioner aspired to work, but it established that the proposed endeavor may benefit those unspecified hospitality organizations, their business partners, and their clients, customers, and guests. Additionally, the record did not establish how the potential prospective impact of the specific endeavor the Petitioner proposed to undertake could have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong. Even if the record established how the Petitioner's proposed endeavor could create a particular innovation, the record did not establish how

such an innovation would have national or even global implications within the field of hospitality, business administration, or any other field. *See id.* As another example, although the record provided generalized assertions regarding labor shortages and employment, the record did not specify any number of workers the Petitioner believed the specific endeavor she proposed to undertake would cause her employer(s)—or any other entity—to hire, the jobs those workers would perform, the wages the employer(s) would pay those workers, and other information that would address whether the proposed endeavor could have significant potential to employ U.S. workers or other substantial positive economic effects. *See id.* On motion, the Petitioner proffers that her personal statement demonstrates a robust commitment to introducing and implementing innovative practices across multiple facets of the hospitality industry which holds national significance. The Petitioner then restates her arguments as she did on appeal under separate headings. However, the Petitioner has not overcome the deficiencies we noted on appeal because although the record generally discussed types of innovations within the fields of hospitality and business administration, the record did not establish any particular innovation the specific endeavor the Petitioner proposed to undertake may have, distinguishable from current practices and trends within the fields of hospitality, business administration, or any other field.

As we explained above, a motion to reconsider must: (1) state the reasons for reconsideration; (2) be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy; and (3) establish that the decision was incorrect based on the evidence in the record at the time of the decision. However, the Petitioner's motion repeats and restates the arguments and documents she believes supports the national importance of her endeavor that were introduced earlier in these proceedings. Moreover, the Petitioner has not established we made a legal error in our conclusion. She has not supported her stated reasons with any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy. The Petitioner's motion essentially expresses her disagreement with our conclusions. But merely disagreeing with our conclusions without showing that we erred as a matter of law is not a ground to reconsider our decision. *See O-S-G-*, 24 I&N Dec. at 58.

III. CONCLUSION

The Petitioner has not demonstrated how we erred in our previous decision on the Petitioner's appeal. Consequently, the motion does not meet the requirements for a motion to reconsider and does not overcome the reasons for our previous decision. Thus, the Petitioner has not shown proper cause for reconsidering our decision. The petition will remain denied.

ORDER: The motion to reconsider is dismissed.