U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35321437

Date: JAN. 10, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a language 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 Section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, finding the Petitioner had not established her eligibility for the underlying EB-2 immigrant classification. 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.

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

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

## II. ANALYSIS

The Petitioner, a language specialist, claimed that she qualifies for the underlying EB-2 visa classification as an advanced degree professional. The Director issued a Request for Evidence (RFE), explaining the record did not support that the Petitioner was an advanced degree professional and because she did not claim eligibility as an individual of exceptional ability, USCIS would not review her eligibility for EB-2 classification under this alternate ground. The Director reviewed the Petitioner's response to the RFE and denied the national interest waiver petition because the Petitioner had not established that she was an advanced degree professional and, as a result, her eligibility for the EB-2 classification, which was dispositive of her petition. Therefore, the Director did not analyze the Petitioner's eligibility for a national interest waiver of the job offer requirement under the Dhanasar framework. Based on our de novo review of the record, we agree with the Director that the Petitioner has not established her eligibility for the underlying EB-2 classification.

On appeal, the Petitioner does not claim that she is an individual of exceptional ability or that the Director erred in not analyzing this alternative basis of establishing her eligibility for the EB-2 visa classification. Any ground of ineligibility that is not raised on appeal is waived. See 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, 658 n.2 (BIA 2012)).

The Petitioner asserts that the Director erred in determining she is ineligible for the underlying EB-2 classification as an advanced degree professional. 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. A U.S. bachelor's degree generally requires four years of education. Matter of Shah, 17 I&N Dec. 244 (Reg'l Comm'r 1977).

The Petitioner provided education documents evidencing she earned a "titulo de licenciado(a)," in English and Portuguese in Brazil in August 2006. She submitted a transcript evidencing she took classes for half of 2003 continuing through 2006. She also provided a "certificado a pela conclusao do curso de pos-graduacao" in advanced English awarded in 2008. According to the associated transcript, she took classes in 2006 and one class in 2007. The Petitioner also submitted an evaluation of academic credentials dated May 2024 which stated the Petitioner's titulo de licenciado is equivalent to a bachelor of education degree in English and Portuguese.

Information from the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE) provides:

> The 2- to 3-year Título de Licenciado (Licenciatura) represents attainment of a level of education comparable to 2 to 3 years of university study in the United States. Credit may be awarded on a course-by-course basis. The 4-year Título de Licenciado (Licenciatura)

represents attainment of a level of education comparable to a bachelor's degree in the United States.[2]

EDGE further provides that the:

> Certificado de Conclusão de Curso Seqüencial represents attainment of a level of education comparable to university study in the United States. Credit may be awarded on a course-by-course basis.[3]

The Director determined that according to EDGE, the Petitioner's título de licenciado is a teaching qualification awarded after two to four years of academic study. The Director further determined that the Petitioner's academic record evidenced her título de licenciado is a three-year credential and not equivalent to a U.S. bachelor's degree, which generally requires four years of education. While the Director acknowledged the Petitioner's May 2024 academic evaluation, which determined that the Petitioner's titulo de licenciado is a foreign bachelor's degree equivalent, the Director explained the academic evaluation was not supported by the record.

On appeal, the Petitioner asserts that USCIS failed to provide specific evidence refuting this evaluation and arbitrarily relied on a database that offers generalized assessments rather than the tailored, case-specific analysis presented by the credential evaluation service. However, EDGE is a web-based resource for the evaluation of foreign educational credentials created by AACRAO. AACRAO is a professional association of higher education admissions and registration professionals who represent academic institutions located in over 40 countries.[4] We consider EDGE to be a reliable source of information about foreign credential equivalencies.[5] We therefore do not agree that the Director's reliance on this resource was arbitrary. Further credential evaluations are only advisory. If questionable in any way, USCIS may give them less weight. See Matter of Sea, 19 I&N Dec. 817 (Comm'r 1988); *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988). Here, the evaluator does not provide, as Petitioner claims, a tailored, case specific analysis of how the Petitioner's academic record, evidencing her completion of a three-year program, amounts to the foreign equivalent of a four-year U.S. bachelor's degree. See Matter of Shah, 17 I&N Dec. 244. Rather, the evaluator summarily stated her course work, credits earned, and years of study earned her a foreign degree equivalent to a bachelor's degree. We therefore agree with the Director that the Petitioner's academic evaluation is not supported by the record to demonstrate the Petitioner has a four-year foreign degree equivalent to a U.S. bachelor's degree.

The Petitioner further asserts that the evaluation considered the Petitioner's academic records comprehensively, including her subsequent certificado de conclusão de curso in advanced English, to

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[2] AACRAO, Título de Licenciado (Licentiate), https://www.aacrao.org/edge/country/credentials/credential/brazil/título-de-licenciado-(licentiate) (last visited January 10, 2025, and incorporated into the record).

[3] AACRAO, Certificado de Conclusão de Curso Seqüencial (Certificate of Sequential Program Completion), https://www.aacrao.org/edge/country/credentials/credential/brazil/certificado-de-conclusão-de-curso-seqüencial-(certificate-of-sequential-program-completion) (last visited January 10, 2025, and incorporated into the record).

[4] See AACRAO, Who We Are, https://www.aacrao.org/who-we-are.

[5] 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).

establish that her educational background meets the equivalency requirements under 8 C.F.R. § 204.5(k)(2). However, the evaluation did not discuss the Petitioner's certificado de conclusão de curso issued in 2008, limiting the analysis to her 2006 titulo de licenciado. Further, the regulation at 8 C.F.R. § 204.5(k)(2) requires a U.S. bachelor's degree or foreign equivalent degree, which means individuals cannot combine experience, training or education to supplement the three-year education degree to equate to a four-year education degree. See SnapNames.com, Inc. v. Chertoff, 2006 WL 3491005 (D. Or. 2006) (where the beneficiary is required to hold a bachelor's degree or a foreign equivalent, a single degree is required). Therefore, the Petitioner's certificado de conclusão de curso in advanced English does not build on her titulo de licenciado to establish she has the foreign equivalent of a bachelor's degree.

The Petitioner also asserts that the Director erred by not considering that her graduate studies and extensive teaching experience further support her qualification as a professional holding an advanced degree. In order to meet the definition of advanced degree through progressive experience, the Petitioner would first have to establish she has the foreign equivalent of a U.S. bachelor's degree followed by five years of progressive experience in the specialty. 8 C.F.R. § 204.5(k)(2). Because the Petitioner has not established that she has the foreign equivalent of a U.S. bachelor's degree, the Director did not err by not considering the Petitioner's experience in determining she was not an advanced degree professional. Last, as discussed above, the Petitioner cannot combine experience, training or education to supplement her three-year education program to equate to a four-year degree.

The Petitioner also argues that the Director did not address any of the Dhanasar prongs and deprived the Petitioner of due process rights and raises arguments from below in support of the Petitioner's eligibility for a national interest waiver of the job offer requirement. The Petitioner has provided no authority in support that the Director is mandated to make findings on issues after making a determination on a separate, dispositive issue. The Petitioner did not establish her eligibility for the underlying EB-2 visa classification, which is required for the approval of the national interest waiver petition. As this determination is dispositive of this appeal, we similarly do not reach and reserve whether the Petitioner has met *Dhanasar's* three prong framework. 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).

ORDER: The appeal is dismissed.