U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29137101

Date: JAN. 26, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a veterinarian, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability in the sciences, arts, or business. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i).

The Director of the Texas Service Center denied the petition, concluding the Petitioner did not establish eligibility for the EB-2 classification or for a national interest waiver under the *Dhanasar* framework. The matter is now before us on appeal. 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 establish eligibility for a national interest waiver, a petitioner must first 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.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish 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 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;

[1] *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.[2]

II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established eligibility for a national interest waiver under the *Dhanasar* framework. While we do not discuss each piece of evidence, we have reviewed and considered each one.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

The Petitioner's proposed endeavor is opening a company that will provide high-level clinical and veterinary care services to K9 detection dogs that are involved in the prevention and repression of crimes and that require specialized care to maintain their health and performance. The services provided by this company will be offered to various organizations such as law enforcement agencies, customs, airports, train and bus stations, postal services, border patrols, county jails and prisons, private establishments, universities, stadiums, casinos, theme parks, hotels, resorts, and public parks. She will establish a medical office in [redacted], Florida to provide services such as client consultations on animal treatment and rehabilitation, animal vaccination, medical exams, and sample collection. The Petitioner contends that her company will help the performance of detection dogs that will in turn help their critical mission in keeping people safe and secure, provide affordable veterinary services, create jobs, and revenue growth for a small business.

The Director concluded the record did not establish that the proposed endeavor has national importance. On appeal, the Petitioner contends that the Director erroneously denied the petition under the preponderance of the evidence standard and instead imposed evidentiary requirements beyond those set forth in the regulations. The Petitioner submits a brief which generally reiterates the benefits of her profession and her qualifications and contends that she has established the national importance of her proposed endeavor.[3]

The Petitioner also asserts on appeal that her proposed endeavor has national importance because she intends to continue working in a STEM field, which has been recognized as of national importance by the federal government. The Petitioner also notes that her degree is on the list published by the Department of Homeland Security (DHS) as the DHS STEM Designated Degree Program List.

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[2] *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

[3] The record supports that the Petitioner's proposed endeavor, which aims to address the health and well-being of animals, has substantial merit. The Petitioner provided information that there is a demand for the profession of veterinarians in the United States. She discusses the importance of small businesses to the U.S. economy, and the importance of fostering businesses in the STEM field. We conclude that the record shows the Petitioner's proposed endeavor has substantial merit.

The Petitioner's assertion that her proposed endeavor has national importance because she intends to continue working in a STEM field is misplaced. "With respect to the first [*Dhanasar*] prong, as in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." See 6 USCIS Policy Manual F.5(D)(2), https://www.uscis.gov/policymanual. A STEM endeavor that is not indicative of an impact in the particular field of STEM more broadly would not establish its national importance. *See id.* Therefore, whether the proposed endeavor is in a STEM field or is listed on the DHS STEM Designated Degree Program List are not dispositive—the Petitioner must still establish that the proposed endeavor would have an impact in the field of STEM more broadly or have broader implications, such as "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *See id.*; *see also Dhanasar*, 26 I&N Dec. at 889-90.

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. As it relates to the Petitioner's experience and ability claims, those relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. Moreover, the Petitioner must establish the national importance of her business rather than the importance of veterinarians, K9 detection dogs, small businesses, entrepreneurism, and immigration.[4] Further, "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* The broader implications of the proposed endeavor, national and/or international, can inform us of the proposed endeavor's national importance. That is not to say that the implications are viewed solely through a geographical lens. Broader implications can reach beyond a particular proposed endeavor's geographical locus and focus. The relevant inquiry is whether the broader implications apply beyond just narrowly conferring the proposed endeavor's benefit. And we also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890.

Moreover, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. In *Dhanasar*, we determined the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. We recognize the overall value of the veterinary medicine industry, attracting STEM talent, and strengthening our nation's veterinary services. However, the evidence does not demonstrate that the Petitioner's specific undertaking stands to have an impact beyond the organization and clients she would serve, or that her proposed work would otherwise have broader implications for the veterinary medicine industry or initiatives. For example, she does not claim, and the record does not establish, that her plans to introduce novel methodologies or medical advancements that may be disseminated to or adopted by others operating in the field or industry, or otherwise articulate how she will contribute to research and development of our nation's veterinary medicine. Here, the record does not show through supporting documentation how her specific company that provides veterinary services to K9 dogs stand to

[4] The Petitioner's contentions and submissions of industry articles and reports relates to the substantial merit of the proposed endeavor rather than the national importance.

sufficiently extend beyond her prospective clients to impact the industry or the U.S. economy more broadly at a level commensurate with national importance. Although the Petitioner contends that her business will generate revenue and create employment opportunities, this does not rise to the level of national importance.

It is also unclear from the evidence in the record whether the work of a single veterinarian or one clinic providing veterinary services, irrespective of its success or failure, would have a significant impact on the field beyond its immediate sphere of influence. The evidence in the record does not highlight how the prospective potential impact of the work of one professional or group of professionals in a veterinary clinic could have broader implications implicating the national interest.

The Petitioner tries to highlight the broader implications of her endeavor by linking it to the importance of maintaining the health of K9 detection dogs but while the health and welfare of working dogs holds merit, the record does not sufficiently describe how the "ripple effects" of the care of K9 dogs implicate the greater national interest. The provision of veterinary services directly benefits only those individuals with detection dogs availing themselves of the Petitioner's services. This is akin to how the benefit of someone's teaching is generally only directly beneficial to the students being taught and not the wider population. In *Dhanasar* we discussed how teaching would not impact the field of education broadly in a manner rising to national importance. *Dhanasar* at 893. By extension activities which only benefit a small subset of individuals and their pets, like the Petitioner's proposed veterinary clinic would not rise to a level of national importance.

Further, the Petitioner has not demonstrated that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. We reviewed the Petitioner's business plan. The business plan makes various projections that the company will purportedly achieve in five years, such as increasing the sales forecast from $264,000 in year one to $818,400 by year five and providing a total payroll of $436,178 by hiring 7 employees. However, the plan does not provide sufficient detail of the basis for these projections, or adequately explain how these sales and staffing targets will be realized. Although the Petitioner indicated she will provide veterinary services to K9 dogs, the business plan lacks specific information regarding K9 dogs in the [redacted], Florida area. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. In addition, the record does not indicate that the location of the business and its proposed operations is an economically depressed area. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to her future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Accordingly, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We acknowledge the Petitioner's arguments on appeal as to the third prong of *Dhanasar* but, having found that the evidence does not establish the Petitioner's eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prong. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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 the applicant is otherwise ineligible).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not established her eligibility for a national interest waiver. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.