U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35683502

Date: JAN. 29, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a health care professional entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, 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 that the Petitioner demonstrated her proposed endeavor had substantial merit but did not establish its national importance. We concurred with the Director and dismissed a subsequent appeal. The matter is now before us on motion to reconsider.

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). Upon review, we will dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner contests the correctness of our prior decision. In support of the motion, the Petitioner asserts our decision was based on an incorrect application of law or policy and indicated she would provide "pertinent precedent decisions, statutory or regulatory provisions, or statements of USCIS or Department of Homeland Security policy that demonstrate the incorrect application of the law or policy in [her] case." However, on motion, the Petitioner does not specify which law or policy she claims was abrogated.

Rather, the Petitioner reiterates that her proposed endeavor has substantial merit as she intends to start a business providing "health services directly to seniors, train nurses, and other health care professionals to provide home care services, thereby creating jobs in underutilized business areas, and helping to address the nursing shortage in U.S. public health." However, as stated above, we

previously concurred with the Director that the Petitioner has already established the substantial merit of her proposed endeavor. We also note that we acknowledge the importance of the health services field, including the provisions of services and training of professionals. However, in determining national importance, the relevant question is not the importance of the field in which the individual will work. Instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). In *Dhanasar*, we determined the petitioner's teaching activities did not rise to the level of having national importance because they would not impact the field more broadly. *Id.* at 893. Here, the Petitioner proposes to provide health services and train health care professionals. However, the Petitioner has not demonstrated these activities would sufficiently extend beyond her company and clientele to impact the field of health care services at a level commensurate with national importance. In addition, the alleged shortage of occupations or occupational skills does not render a proposed endeavor nationally important under the *Dhanasar* framework. Rather, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner contends we failed to consider "her broader implications and [her] qualifications for the national interest waiver." The Petitioner asserts she submitted a business plan demonstrating the benefits of her proposed endeavor to the state of Montana and surrounding region, and the U.S., through the generation of jobs and training of professionals for elder care. The Petitioner claims her proposed endeavor aspires to create 75 direct jobs in five years and has the potential to create 25 thousand direct and indirect jobs in the future. Initially, we note that the Petitioner's qualifications relate to the second prong of the *Dhanasar* framework, which considers whether a petitioner is well-positioned to advance a proposed endeavor and "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. Further, while the Petitioner submitted a business plan for her proposed business, the Petitioner did not submit sufficient supporting evidence corroborating these assertions and figures. The Petitioner also did not establish the significance of this employment data to demonstrate the benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

Overall, the Petitioner has not demonstrated how the potential prospective impact of her proposed endeavor stands to offer broader implications in her field or to generate substantial positive economic effects in the region where her business would operate or nationally, at a level commensurate with national importance. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.