U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31570037

Date: JULY 1, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a nutritionist and entrepreneur, 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 Texas Service Center denied the petition, concluding the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree, but 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.

I. LAW

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 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 submitted evidence that she attained the equivalent of a United States bachelor's degree and has at least five years of progressive post-baccalaureate experience in her specialty. The Director determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether she qualifies for and merits a waiver of the job offer requirement in the national interest.

In her "Business Plan – Proposed Endeavor" the Petitioner states she will create a company, [redacted] which will run a telehealth network platform connecting patients to nutritional professionals for treatment of obesity, eating disorders and other medical conditions. The Petitioner states the company will publish educational content, support research, participate in clinical studies, and provide lectures and webinars to schools and the community. According to the business plan, the Petitioner's company will be incorporated in Ohio and would expand to Florida and then nationally through franchising.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

The Director concluded, however, that the Petitioner did not establish the national importance of her proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish her proposed endeavor would sufficiently extend beyond an organization and its clients, to impact the industry or field more broadly, or that it would have substantial positive economic effects as contemplated in *Dhanasar*.

On appeal, the Petitioner asserts the Director "did not give due regard to" her resume, professional plan, evidence of her work in her field, recommendation letters, and industry reports and articles. Although the Director did not individually discuss all the evidence submitted, de novo review of the record shows they adequately addressed and assessed the relevant evidence. When USCIS provides a reasoned consideration of the petition, and has made adequate findings, it will not be required to specifically address each claim a petitioner makes, nor is it necessary for it to address every piece of evidence a petitioner presents. *See Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *aff'd Morales v. INS*, 208 F.3d 323, 328 (1st Cir. 2000); *see*

also Pakasi v. Holder, 577 F.3d 44, 48 (1st Cir. 2009); and *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009).

The Petitioner claims letters from her former supervisor and a colleague support the national importance of her proposed endeavor. [redacted] the Petitioner's former supervisor praises the Petitioner's work at [redacted] and states she was hoping to promote her, but the Petitioner took a position with another company. Ms. [redacted] asks that we take the Petitioner's accomplishments at [redacted] into consideration in assessing her future in the United States. [redacted] the Petitioner's colleague at [redacted] also praises her work for the company and provides examples of how her care for residents went above and beyond each day. While they praise the Petitioner's accomplishments as a nutritionist, Ms. [redacted] and Ms. [redacted] do not mention her proposed endeavor. *Cf. Dhanasar*, 26 I&N Dec. at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it related to U.S. strategic interests).

The Petitioner also asserts her proposed endeavor has national importance because it "finds resonance with several federal governmental initiatives" including Healthy People 2030, a United States Department of Health and Human Services initiative and the Let's Move Campaign of the White House. The Petitioner did not submit evidence of these federal initiatives and how her proposed endeavor would impact them. The Petitioner submitted articles discussing nutrition, health, wellness, new food trends, dietitian job trends, and information from O-Net Online and the Occupational Outlook Handbook on dietitians and nutritionists. These documents address the importance of nutrition and the work of nutritionists and dietitians. However, our assessment of national importance does not focus on the importance of a field or occupation in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the documents mention the Petitioner or address her specific proposed endeavor. The Petitioner has not demonstrated that her proposed endeavor would have broader implications in the field of nutrition on a level of national importance. *Cf. id.* at 892 (citing media articles and other evidence documenting Congressional interest in Dhanasar's research).

The Petitioner further claims her proposed endeavor will impact the national economy by securing the success of small and medium-sized companies, generating new jobs, and through her entrepreneurship. The record does not support this claim. While the Petitioner discusses the contributions of entrepreneurs, and small and medium-sized businesses to the national economy, she does not specify how her company's work with individual clients will impact the economy on a level of national importance. *See id.* at 889 (explaining "we look for broader implications").

The Petitioner submitted a letter from Dr. [redacted] Lecturer at [redacted] New Jersey expressing her opinion that the Petitioner qualifies for a national interest waiver. Dr. [redacted] states the Petitioner's proposed endeavor has significant potential to employ United States workers and has other substantial positive economic effects because "[n]utritional clinics play a vital role in shaping the US economy through various direct and indirect impacts." However, our assessment of national importance "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Dr. [redacted] discusses the impacts of nutritional clinics in general but does not specifically address the Petitioner's proposed endeavor.

In her business plan, the Petitioner predicts her company will employ eight people the first year and increase employment to 34 people in the fifth year. The business plan states the company intends to operate in "economically distressed communities, since obesity is strongly related with low-income populations," will begin operations in Ohio, and then expand to Florida and other regions. The business plan does not indicate, and the Petitioner did not submit other evidence showing that the employment of eight to 34 people would have a significant economic effect in Ohio, Florida, or the other unspecified economically distressed communities where the company plans to expand operations. *See id.* at 890 (stating significant potential to employ U.S. workers, particularly in an economically depressed area, may show national importance).

The Petitioner also asserts her company will greatly impact the national economy through payment of wages and taxes. The Petitioner's business plan predicts the company will pay $81,866 in taxes in the first year, increasing to $1,621,484 in the fifth year. The business plan also forecasts paying $6,530,253 in wages by the fifth year. The business plan does not state predicted wages for the second through fourth year of the company's operation and does not specify how the fifth-year wage predictions were made. The Petitioner also does not submit evidence that the predicted wages and tax payments are considered significantly high in her field or would otherwise have a substantial positive economic effect in Ohio, Florida or other regions where the company plans to operate in the future. *See id.* (stating substantial positive economic effects may indicate national importance).

The Petitioner further claims her proposed endeavor has national importance because it "addresses an essential facet of healthcare access" through her telehealth network platform and "taps into crucial healthcare needs." However, the Petitioner has not demonstrated that her company's telehealth network platform would have national implications beyond the individual patients and nutritional professionals which it would serve. *See id.* at 889 (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field). In *Dhanasar,* we determined that 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. Here, the Petitioner has not established that her proposed endeavor would sufficiently extend beyond her clientele to impact her field more broadly at a level commensurate with national importance.

Although the relevant evidence establishes the substantial merit of the Petitioner's proposed endeavor, the Petitioner has not demonstrated that her proposed endeavor would have significant potential to employ U.S. workers, other substantial positive economic effects, national or even global implications within her field, or other broader implications indicating national importance.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of her specific proposed endeavor and she does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of her eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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).

III. CONCLUSION

The Petitioner has not established the national importance of her proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, she has not demonstrated that she is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.