U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31672571

Date: JUL. 09, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, an anti-bullying educator, 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 the Petitioner had not established eligibility for a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The Director denied the subsequent motion to reopen and reconsider, determining that the evidence did not meet the requirements for a motion to reopen and reconsider. 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. 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:

[1] *See 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 is discretionary in nature).

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

Id.

II. ANALYSIS

The Petitioner's proposed endeavor is a pedagogical intervention project aiming to, "analyze, detect, treat and raise awareness about the continu[ing] prevention of bullying." Further, "the program will design and apply intervention techniques to eventually cause a reduction in physical and online violence, a decrease in psychological problems, and improvement in organizational behavior."

The first prong of the *Dhanasar* analysis, 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. As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889.

The Director determined, and we agree, that the Petitioner established the substantial merit, but not the national importance, of the proposed endeavor. In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. The Petitioner submitted numerous articles such as "The Problem of Bullying in Schools" and "Consequences of Bullying" to establish the gravity of bullying. However, the matter here is not whether bullying is a nationally important problem. Rather, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of providing her services as an anti-bullying specialist through her pedagogical intervention project in Florida. She asserts her program plan provides corroboration for the methodology and schedule of the project. This program plan lacks detail as to how the Petitioner will be able to enter public schools across Florida to train and present the project, for example, and then presumably expand the project to create a national impact. Here, the record does not contain specific and thorough information regarding the national influence of the project.

On appeal the Petitioner contends the Director erred in comparing the Petitioner's endeavor to *Dhanasar's* teaching activities because she asserts the proposed endeavor is to apply a pedagogical intervention project as a resource to eliminate bullying and not work solely as a teacher. However, the Petitioner misinterprets this issue. The concern is the endeavor's influence, not whether the Petitioner is working as a teacher or providing an intervention project. The Petitioner did not demonstrate how her intervention project would largely influence the field and rise to the level of national importance. The evidence does not show through supporting documentation that the endeavor sufficiently extends beyond her prospective schools to impact the field or the U.S. economy more broadly at a level commensurate with national importance.

The Petitioner's contention that bullying affects everyone, and that the solution, the Petitioner's proposed endeavor will benefit everyone, is also misplaced. The Petitioner does not provide support for these assertions and continues to rely on the importance of the benefits of reducing bullying in general and asserts that the pedagogical intervention will positively impact the economy. However, as previously discussed, in determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead we focus on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889.

Further, the Petitioner's expert opinion letters and letters of recommendation do not satisfy *Dhanasar's* national importance prong. While the expert opinion letter from Dr. [redacted] expounds on the potential benefits of the proposed intervention program, it does not explain how it would have broader implications for our country or how the program would expand. In regard to the Petitioner's proposed endeavor, Dr. [redacted] states that due to, "her track record of record of success in education, I am sure she will be asked to present at lectures, congresses and seminars," without providing particulars about how the program would reach those audiences. The letter repeats the same arguments addressed above pertaining to the importance of anti-bullying program without corroborating details to explain the program's implementation or national reach.

Similarly, the letters of recommendation address the Petitioner's skills in developing ideas and activities for the children she teaches and detail her excellent rapport with children, the letters do not show the broader impact of the Petitioner's work, and are limited to her specific students and schools. Moreover, the letters cover the Petitioner's prior work and accomplishments and relate more to the second prong rather than the first prong of the *Dhanasar* framework. *Id.* at 890.

Because the documentation in the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of the Petitioner's eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.[2]

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed

[2] *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 alternate issues on appeal where applicants do not otherwise meet their burden of proof).