U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31679072

Date: JULY 11, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an animal health specialist for small animals and emotional support animals (ESAs), seeks classification as an employment-based second preference (EB-2) immigrant 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 that the record did not establish that the Petitioner is eligible for a national interest waiver as a matter of discretion and that, on balance, it would not be beneficial to the United States to waive the requirements of the job offer, and thus of a labor certification.[1] 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 first 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 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. 8 C.F.R. § 204.5(k)(2).

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."

[1] The Director found that the endeavor has substantial merit and that the Petitioner is well-positioned to advance the proposed endeavor.

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,[2] 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
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

A. EB-2 Classification

The Petitioner submitted a Doctor in Veterinary Sciences degree from the [redacted].[3] The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree and we agree.

B. National Interest Waiver

1. Substantial Merit

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. Dhanasar, 26 I&N Dec. at 889. The Petitioner's endeavor is to be an animal health specialist focusing on companion animals and Emotional Support Animals (ESAs). The record contains articles, opinion letters, and the Petitioner's own statement of intent to provide high-quality services including medical and surgical care for small animals, specialized dermatology treatments for companion animals, veterinary clinical pathology diagnostics, and expertise in the field of emotional support animals. We agree with the Director that the Petitioner's proposed endeavor has substantial merit.

2. National Importance

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[2] 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).

[3] We reviewed the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE). According to EDGE, the diploma represents attainment of a level of education comparable to completion of a vocational or other specialized high school curriculum in the United States. We consider EDGE to be a reliable source of information about foreign credential equivalencies. 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). See https://www.aacrao.org/edge/country/paraguay for information regarding the education system in Paraguay.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Id. The Director determined that the record did not establish that the proposed endeavor is of national importance as the Petitioner did not establish that their proposed endeavor in the United States will have a broader impact on the field outside of their prospective company.

On appeal, the Petitioner asserts generally that the Director improperly imposed a higher standard of proof than a preponderance of the evidence, erroneously applied the law, and did not consider the totality of the evidence in the record. However, the Petitioner does not support these assertions with specificity as to the record or point to how the Director imposed a higher standard. The Petitioner's unsupported assertions alone are not sufficient to establish error in the Director's decision nor meet her burden of proof to demonstrate eligibility for a national interest waiver. An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. See 8 C.F.R. § 103.3(a)(1)(v). Although the Petitioner asserts that she has provided evidence sufficient to demonstrate her eligibility for a national interest waiver, she does not specify, as required, how the Director erred or what factors in the decision were erroneous.

As to the national importance of the proposed endeavor specifically, on appeal the Petitioner primarily asserts and discusses the following as establishing this requirement: her employment experience, the shortage of veterinarians in the United States, that depression and mental health struggles "have reached epidemic levels" of a national public health problem and the role animals can play in emotional support and alleviating symptoms of various mental health conditions. The Petitioner relies on expert opinion and letters of support she provided, her statement, and "Probative Evidence" submitted, asserting that her work is considered critical and is aligned with national initiatives. The "Probative Evidence" (Petitioner's Exhibit 11) includes:

- An Advisory Memorandum on Ensuring Essential Critical Infrastructure Workers (sic) Ability to Work during the Covid-19 Response, dated December 16, 2020, issued from the U.S. Department of Homeland Security Cybersecurity & Infrastructure Security Agency;
- Guidance on ensuring essential critical infrastructure to ensure community and national resilience during the Covid-19 response, dated August 18, 2020;
- Article entitled, How do you Measure the Impact of an Initiative, by Stacey Barr, dated September 5, 2017.
- Blog downloaded January 8, 2024 entitled, The Importance of Initiatives in Successful Strategy Execution, by Conor Crimmins, dated May 18, 2021;
- Article on veterinary shortage from WellHaven (sic) Pet Health, dated March 25, 2023;
- Fact Sheet regarding Biden-Harris Administration announcing two new actions to address youth mental health crisis dated July 29, 2022;
- Fact Sheet regarding Biden-Harris Administration announcing strategy to address national health crisis, as part of Unity Agenda in his first State of the Union, dated March 1, 2022;
- November 2022 Interim Strategic Plan of the Substance Abuse and Mental Health Services Administration;
- Sections of National Institute of Mental Health Strategic Plan addressing striving for prevention and cures and advancing mental health services to strengthen health;
- USDA report regarding Animal Health Program and Animal Welfare Act;

- KFF (a health policy organization) report on the implications of Covid-19 for mental health and substance abuse, dated March 20, 2023;
- 2021 letter from the American Psychiatric Association (APA) regarding poll showing concern about Covid-19 remaining and associated anxiety;
- October 2020 Center for Disease Control and Prevention report on Youth Risk Behavior Trends covering the period of 2009-2019;
- Article on the mental health crisis among U.S. teens from moneycontrol.com downloaded July 25, 2023 (undated);
- 2021 U.S. Surgeon General's Advisory, Protecting Youth Mental Health;
- American Veterinary Medical Association articles, Service, emotional support, and therapy animals (undated) and Animal-assisted intervention: Guidelines;
- WSAVA.ORG Global Veterinary Community website printout of "Mission and Plan";
- Articles about Veterinarian shortage: Veterinary Shortage: What it Means and What We Can (sic) About It, posted March 25, 2023 on WellHaven.com blog, article posted on vetrecruiter.com and article in Indianapolis Business Journal (undated); and,
- NYU Law Review 2006 article, The Race for Talent: Highly Skilled Migrants and Competitive Immigration Regimes, by Ayelet Shachar.[4]

In determining whether a proposed endeavor has national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the potential prospective impact of the "specific endeavor that the [noncitizen] proposes to undertake." See Matter of Dhanasar, 26 I&N Dec. at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. Id. Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. Id. at 890. The "Probative Evidence" does not support how the Petitioner's particular endeavor rises to national importance, but rather addresses the state of mental health in America and generally that there is a shortage of veterinarians.

We have reviewed the Petitioner's business plan and supporting evidence and conclude that it does not establish the endeavor's national importance. As the Petitioner states, she plans to "explore" several possibilities: developing an integrated mental health support model (integrating veterinary care with mental health services), creating personalized ESA training programs, initiating collaborative research initiatives, and exploring telemedicine and virtual support. Exploration of these several possibilities does not adequately support that the endeavor rises to the level of national importance. Next, the Petitioner emphasizes on appeal her experience and expertise in veterinary medicine and ESAs as establishing the endeavor's national importance. However, evidence of the Petitioner's education, skills, and expertise, including work experience, generally relates to the second prong of the Dhanasar framework, which "shifts the focus from the proposed endeavor to the [noncitizen]" and whether she is well-positioned to advance it. Matter of Dhanasar, 26 I&N Dec. at 890. The issue here is whether the Petitioner's specific proposed veterinary endeavor has national importance under

[4] While we may not discuss every document submitted, we have reviewed and considered each one.

Matter of Dhanasar's first prong. The evidence of the Petitioner's work experience does not elaborate on the Petitioner's specific proposed endeavor nor support its national importance.

Similarly, the Petitioner's emphasis on the shortage of veterinarians in the United States and the importance of improving American mental health is misplaced. In determining whether a proposed endeavor has national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the potential prospective impact of the "specific endeavor that the [noncitizen] proposes to undertake." See id. at 889. The record does not contain evidence that would support the conclusion that the Petitioner's proposed endeavor would lessen the shortage of veterinarians or increase access to mental healthcare in the United States on a scale commensurate with national importance.

Finally, the Petitioner asserts on appeal that the language of Matter of Dhanasar allows for a regionally focused endeavor to nevertheless establish national importance, and that we should "avoid overemphasis on the geographic breadth" of the proposed endeavor. The Petitioner is correct that the analytical framework introduced in Matter of Dhanasar sought to reduce the focus on the geographic impact of an endeavor. See id. at 887. However, the Petitioner does not claim that the Director made any specific legal or factual errors related to the regional focus of the Petitioner's proposed endeavor. The Director did not rely on the endeavor's lack of geographic breadth in concluding that it lacks national importance. Rather, the Director concluded that the Petitioner did not offer sufficient information and evidence to establish that the proposed endeavor would have broader implications for her field or that it would offer substantial positive economic effects. Upon de novo review, we agree. Although an endeavor that is regionally focused may have national importance, it must still have a broad impact. Id. at 889.

The Petitioner's primary contention on appeal is that the Director applied a higher standard of proof than the preponderance of the evidence standard and that the nature of the occupation, a shortage of veterinarians, a rise in mental health problems, her specialized experience with emotional support animals, and her years of experience establish the national importance of the proposed endeavor. In support, she largely restates arguments already presented in the RFE response. We have thoroughly reviewed the evidence in the record and conclude that although the Petitioner asserts that her proposed endeavor has national importance, she offers little corroborative evidence or explanation to support these claims. While the Petitioner provided a significant volume of evidence, eligibility for the benefit sought is not determined by the quantity of evidence alone but also the quality. Matter of Chawathe, 25 I&N Dec. at 376 (citing Matter of E-M-, 20 I&N Dec. 77, 80 (Comm'r 1989)). Accordingly, we conclude that the Petitioner has not established the national importance of her proposed endeavor.

In summation, the Petitioner has not established that her 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 second and third prongs of Dhanasar but, having found that the evidence does not establish the Petitioner's eligibility under the first prong as to national importance, we will not address those arguments here. We reserve our opinion regarding whether the record satisfies the second and third Dhanasar prongs. See INS v. Bagamasbad, 429 U.S. at 25 (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. at 526 n.7 (declining to reach alternative issues on appeal where the applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the Dhanasar analytical framework. We therefore conclude that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.