U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31285953

Date: JULY 11, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a nurse, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or an individual of exceptional ability, 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 did not qualify for EB-2 classification and 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. 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 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 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:

[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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- 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 is a nurse who has worked in her field for over ten years. In her business plan, the Petitioner described her proposed endeavor as "providing high-quality, personalized nursing services to patients in the U.S." and teaching at health education institutions. The Petitioner proposed to work at "general healthcare institutions in the U.S."

A. EB-2 Classification

The Director determined the Petitioner was not eligible for EB-2 classification as a member of the professions holding an advanced degree or an individual of exceptional ability. As the Petitioner is not eligible for a national interest waiver for the reasons discussed below, we do not reach and hereby reserve our determination of her eligibility for EB-2 classification. *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).

B. National Interest Waiver: Substantial Merit and National Importance

The first prong in the *Dhanasar* analytical framework for evaluating national interest waivers is substantial merit and national importance. *Dhanasar*, 26 I&N Dec. at 889. This prong focuses on the specific endeavor that the individual proposes to undertake. *Id.* 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 did not describe her proposed endeavor with enough specificity to assess if it had substantial merit. We disagree. The Petitioner sufficiently described her proposed endeavor in her business plan and submitted numerous articles concerning the importance of nursing to the nation's healthcare system. The Petitioner has established that her proposed endeavor has substantial merit.

The Director also concluded 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 other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish her proposed endeavor would impact her field more broadly at a level commensurate with national importance.

On appeal, the Petitioner asserts her proposed endeavor has national importance because it aligns with U.S. Department of Health and Human Services initiatives. Specifically, the Petitioner claims that by providing high-level nursing care and healthcare service improvements, she will support the National Quality Strategy of the Centers for Medicare and Medicaid Services (CMS) and Centers for Disease Control (CDC) guidelines. The Petitioner does not, however, specify how her proposed endeavor would impact CMS, CDC, or HHS more broadly to impact her field apart from her compliance with national standards in her work with individual patients and students. The assessment of national importance does not focus on the importance of national institutions or issues in the field, but rather "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889.

The Petitioner also claims her proposed endeavor will significantly impact the U.S. economy because the benefits of her work "will ripple throughout large-scale health service networks and the hospitals industry as a whole" and as companies increase revenues, they will expand their operations and create new jobs. The Petitioner states she intends to work in Florida where hospitals contributed nearly $178 billion in economic output in 2021 and employed 322,000 Floridians. The Petitioner claims her work will help strengthen the growth of the hospitals industry in Florida and nationwide where it generated $1.3 trillion in revenue in 2022. The size and growth of the hospitals industry does not establish the national importance of the Petitioner's specific proposed endeavor. The Petitioner does not demonstrate how her work with individual patients and students would impact the hospitals industry more broadly through, for example, medical advances or other national implications. *See id.* (stating an endeavor "may have national or even global implications within a particular field, such as those resulting from improved manufacturing processes or medical advances")

The Petitioner further asserts that with her experience implementing patient safety procedures and quality healthcare services she can contribute to increased efficiency and organization in healthcare that will increase the productivity of U.S. hospitals. The Petitioner does not demonstrate how, as an individual nurse and teacher, she would make such contributions beyond the specific hospitals or other healthcare facilities at which she would work to impact her field more broadly. The Petitioner also claims her proposed endeavor will operate in "a key sector of the national economy" and "nursing has tremendous potential in terms of generating economic growth in the U.S." The Petitioner does not specify how her work with individual patients and students would have substantial positive economic effects.

The Petitioner also claims her proposed endeavor has national importance because it would help meet an urgent shortage of nursing professionals. The Petitioner claims she would "fill a gap in the market which cannot be filled by an unskilled worker." The Petitioner also submitted articles regarding the shortage of nurses in the United States. In assessing national importance, we do not focus on the importance of issues affecting a field, but focus on a petitioner's specific proposed endeavor. *Id.* The Petitioner does not demonstrate how her work as an individual nurse and teacher would significantly address a nationwide shortage of nursing professionals or otherwise impact her field more broadly.

The Petitioner states that through her teaching, she will "transfer the necessary skills and knowledge to help create and maintain a qualified workforce, thereby fulfilling industry needs and benefiting the United States' economic and social needs." 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 individual students to impact her field more broadly at a level commensurate with national importance.

In sum, the relevant evidence demonstrates the substantial merit of the Petitioner's proposed work in her field but does not establish the national importance of her specific proposed endeavor. Consequently, she does not meet the first prong of the *Dhanasar* framework.

B. The Remaining *Dhanasar* Prongs

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. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7.

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.