U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31606642

Date: JULY 17, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a soccer coach and sports manager, 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 she had not established 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 a copy of her master's degree in sport management and transcript from [redacted] in Florida. The Director determined 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 professional plan submitted in response to the Director's request for evidence (RFE), the Petitioner stated she would be a sports manager and would create a business focusing on a children's program using a soccer training methodology she developed. The Petitioner indicated she would partner with sports-related brands, healthcare industry professionals, and the recreation, community, leisure, entertainment, and fitness industries.

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 the potential prospective impact of her proposed endeavor.

On appeal, the Petitioner asserts the Director erroneously questioned the broader implications of her work and overlooked the cultural enrichment and societal welfare aspects of her proposed endeavor. The Petitioner cites soccer's rising popularity in the United States and claims her proposed endeavor aligns with societal interests in promoting physical activity, mental health, and healthy lifestyles. Specifically, the Petitioner claims she developed a soccer training methodology when working at [redacted] Soccer Club which helped children create and improve their cognitive skills, and which indicates she will continue to make contributions of significant impact in her field. The Petitioner submitted a letter from J-M-C-[2], Club Vice President and Coach of [redacted] Soccer Club, who states the Petitioner developed the "little kickers" program for three- to four-year-old children. J-M-C- credited the program with going beyond the soccer field to support child development. The Petitioner also submitted a letter from B-S- whose daughters attended the "little kickers" program, which she

[2] We use initials to protect the privacy of individuals referenced in this decision.

praises for significantly improving their cognitive, motor, and social skills. However, neither J-M-C- nor B-S- indicate that the "little kickers" program was adopted by other institutions or otherwise made an impact on the field of soccer or sports management beyond the [redacted] Soccer Club. *Cf. id.* at 892 (citing media articles and other evidence documenting Congressional interest in Dhanasar's research). The Petitioner has not established that the "little kickers" program has had national or even global implications for her field indicative of national importance. *See id.* at 889 (citing improved manufacturing processes or medical advances as examples of national or global implications within a particular field).

The Petitioner also claims the Director erroneously determined her proposed endeavor would not make substantial economic contributions to the United States. The Petitioner asserts soccer is one of the fastest growing sports in the United States, with significant economic potential, and her soccer training methodology and sports management services will provide employment opportunities and enhance various industries' economic outcomes. The Petitioner also claims the growth in the global sports events market shows her proposed endeavor would boost local economic activity by hosting sporting events. In her business plans submitted initially and in response to the RFE, the Petitioner did not indicate that she would employ any other individuals. Her business plans also contained no financial analysis or other information regarding the specific economic impact of her sports management work. The Petitioner has not demonstrated that her proposed endeavor has significant potential to employ U.S. workers or would otherwise have substantial positive economic effects indicative of national importance as contemplated in *Dhanasar*. *See id.* at 890 (discussing substantial positive economic effects).

The Petitioner further asserts her proposed endeavor has national importance because it impacts the Biden Administration's promotion of the National Youth Sports Strategy and importance of physical activity for the health and wellbeing of youth. While we do not question the importance of these initiatives, our assessment of national importance does not focus on the importance of issues to the field in general. Instead, our determination "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. The Petitioner claims that because soccer benefits children's health and soft skills, her proposed endeavor has broader implications as the benefits of her programs "extend to all areas of life." The Petitioner has not shown, however, how her proposed endeavor would extend beyond the individual children with which she would work to impact her field more broadly on a level commensurate with national importance. *See id.* at 889 (explaining "we look for broader implications").

The Petitioner also claims her proposed endeavor has national importance because there is a growing demand for, but shortage of sports management professionals. The Petitioner has not shown how her work as an individual sports manager would alleviate any shortage in the industry. In addition, the United States Department of Labor directly addresses labor shortages through the labor certification process, which the Petitioner is seeking to waive in her case.

The Petitioner submitted letters from A-J-R-, Lecturer at [redacted] and R-D-, Adjunct Associate Professor at [redacted] expressing their opinions that the Petitioner qualifies for a national interest waiver. A-J-R- states the Petitioner's proposed endeavor has national importance because it impacts a matter that a government entity has described as having national importance or is the subject of national initiatives. Specifically, A-J-R- cites the work of the National

Physical Activity Plan Alliance (NPAPA) and the U.S. Department of Health and Human Services (HHS) to advance awareness and promotion of physical activity. A-J-R- notes that physical activity has many positive health benefits, including addressing obesity and its costs to businesses and organizations. A-J-R- also states that physical activity is associated with economic benefits and the U.S. Youth Soccer Championships provide $17 million of economic impact. A-J-R- does not specify how the Petitioner's specific proposed endeavor would impact the work of NPAPA and HHS, the broader health benefits of physical activity, or contribute to the revenue of the U.S. Youth Soccer Championships on a level commensurate with national importance.

R-D- states the Petitioner's proposed endeavor will have national importance because it will focus on healthy child development and studies have shown that physical activity has important benefits for children's health and most children do not get the federally recommended amount of daily exercise. R-D- does not specify how the Petitioner's proposed endeavor would address children's health beyond the individual children her business would serve. R-D- also asserts the Petitioner's plan includes creation of a business and partnerships with sports-related brands and healthcare industry professionals, which will contribute to the U.S. economy as she begins locally and then expands her business to reach youth across the United States. In her business plans, the Petitioner did not describe any projected expansion of her business across the United States. R-D- and the Petitioner's business plans also do not indicate that her business would employ U.S. workers or otherwise have substantial positive economic effects indicative of national importance.

A-J-R- and R-D- do not establish that the Petitioner's proposed endeavor would extend beyond individuals she would work with directly to impact her field more broadly. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it related to U.S. strategic interests). 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 individual children and other clientele to impact the field of sports management more broadly at a level commensurate with national importance.

Although the relevant evidence establishes the substantial merit of the Petitioner's proposed endeavor, it does not demonstrate the Petitioner's proposed endeavor would have significant potential to employ U.S. workers, other substantial positive economic effects, national or even global implications within the 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.