U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31859991

Date: JULY 17, 2024

Appeal of Texas Service Center Decision

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

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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

In her business plans, the Petitioner proposed to create and manage a veterinary clinic which she would set up as a limited liability company located in [redacted] Texas. The business plans state the clinic would provide high-quality veterinary services to pet owners, farmers, breeders, and horse owners.

A. EB-2 Classification

The Director did not address the Petitioner's eligibility for EB-2 classification as a member of the professions holding an advanced degree or an individual of exceptional ability. The Petitioner submitted a copy of her 2016 diploma from the [redacted] in Brazil awarding her the title of veterinary medicine and her academic transcript showing her completion of eight semesters of study. The Petitioner also submitted a letter from her accountant declaring that she has been self-employed since 2016 to the date of the letter in 2022 and listing her responsibilities. In addition, the Petitioner submitted an evaluation from GEO Credential Services concluding that her degree and work experience are equivalent to a U.S. doctoral degree in veterinary medicine.

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's proposed endeavor has substantial merit. We agree.

However, the Director 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 have substantial positive economic effects or benefits beyond her company and its clientele.

The Petitioner initially submitted a letter from J-D-G-[2], a licensed veterinarian, expressing her opinion that the Petitioner qualifies for a national interest waiver. On appeal, the Petitioner asserts her eligibility by quoting large portions of J-D-G-'s letter, which is not entirely consistent with other relevant evidence in the record. For example, J-D-G- states the Petitioner will disseminate her knowledge to other professionals in her field through lectures, teaching, and training. However, in her professional plans and definitive statements, the Petitioner does not indicate that she would engage in these activities.

The Petitioner and J-D-G- assert the Petitioner's proposed clinic has national importance due to the large amount of money spent on pet care in the United States, the strong and increasing demand for veterinary services, and the growth of the veterinary industry. The Petitioner and J-D-G- also claim the Petitioner's involvement with the equine industry shows the national importance of her proposed endeavor, as the horse industry contributes approximately 50 billion dollars to the U.S. economy, employs 1.7 million people, and equine therapy positively impacts physical and mental health, and an area's ecology. Our assessment of national importance does not focus on the importance of a field or industry, but rather "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. The Petitioner and J-D-G- do not specify how the Petitioner's clinic would contribute to the veterinary or equine industries beyond the individual clients it would serve. *See id.* (explaining "we look for broader implications").

The Petitioner and J-D-G- further claim the Petitioner's clinic has national importance because veterinarians "play critical roles in environmental protection, research, food safety, and public health." They discuss the work of veterinarians in agriculture, academia, pharmaceutical and biomedical research, food safety, and public health and safety. We do not question the important contributions that veterinarians make to these fields. 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.* The Petitioner has not demonstrated that her clinic would provide services extending beyond her clientele to make national or even global contributions to her field. *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").

In her definitive statement submitted in response to the RFE, the Petitioner asserts her company will create American jobs and increase revenues for the broader U.S. economy. In her business plan submitted in response to the RFE, the Petitioner states her clinic will employ one other individual in its first year of operation, increasing to five other employees in the fifth year. This business plan states that although the location of her clinic is not economically depressed, surrounding areas are rated "distressed" and "at-risk." Even if we considered the location of the Petitioner's clinic to include the surrounding areas, the Petitioner's clinic's employment of one to five individuals over the course of five years does not demonstrate significant potential to employ U.S. workers, as contemplated in *Dhanasar*. *See id.* at 890. The business plan also projects a balance of $61,250 the first year, increasing to $268,500 in the fifth year and states the revenue would be reinvested locally. The

[2] We use initials to protect the privacy of the referenced individual.

Petitioner did not submit evidence that these profits are significantly higher than those of other veterinary clinics or that the projected profits would otherwise have a substantial positive economic effect on a level commensurate with national importance. *See id.* (discussing substantial positive economic effects as indicative of national importance).

The Petitioner and J-D-G- also claim the Petitioner's proposed endeavor aligns with the Biden-Harris Administration's statements on attracting talent in science, technology, engineering, and mathematics (STEM). They claim the Petitioner's proposed endeavor also aligns with corresponding United States Citizenship and Immigration Services (USCIS) policy. USCIS recognizes the importance of progress in STEM fields and the essential role that individuals with advanced STEM degrees have in fostering such progress. 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual/. However, "in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." *Id.* 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. *Dhanasar*, 26 I&N Dec. at 893. Here, the Petitioner has not established that the impact of her clinic would extend beyond its clientele to impact the veterinary field more broadly at a level commensurate with national importance. *See id.* at 889 (explaining "we look for broader implications").

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.