U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31125021

Date: JUNE 7, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an administrative assistant in business, 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 with an advanced degree, but that the record did not establish her eligibility for a waiver of the job offer requirement 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

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

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

II. ANALYSIS

The Petitioner worked as an administrative assistant at the [redacted] in Brazil for nearly 13 years. The Petitioner proposes to be a business manager providing companies with specialized services in sales, finance, human resources, and purchasing. The Petitioner plans to focus on the oil and gas, infrastructure, railway, pharmaceutical, and automobile industries.

The Director determined the Petitioner is a member of the professions holding an advanced degree. The only issue on appeal is whether she is eligible for and merits a waiver of the job offer requirement in the national interest.

A. Substantial Merit and National Importance

The first 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. *Dhanasar*, 26 I&N Dec. at 889. 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.

On appeal, the Petitioner claims the Director's erroneous referral to her as a lawyer undermined the Director's evaluation of the Petitioner's proposed endeavor and its national importance. We acknowledge the Director's mistaken reference to the Petitioner as a lawyer in one part of her decision. The record does not reflect, however, that this mistake prejudiced the Petitioner as we find no error in the Director's ultimate determination.

The Petitioner further asserts the Director ignored her individual contributions and potential implications of her work and did not consider her support letters. The Petitioner submitted letters from her past employers who praise her past work at the [redacted] but do not address how her proposed endeavor would impact her field on the level of national importance. For example, [redacted] praises the Petitioner as a qualified professional "committed to creating and improving processes that generate value for any company" and [redacted] describes the Petitioner as "a talent to be retained by any company that has the opportunity to count on her beautiful work." Neither Ms. [redacted] nor Ms. [redacted] specify how the Petitioner's proposed endeavor would have national or even global implications in any of the industries the Petitioner proposes to focus on, and they do not discuss how the Petitioner's proposed endeavor offers any other broader implications rising to the level of national importance.

The Petitioner next asserts the Director failed to acknowledge the potential economic effects of her proposed endeavor. The Petitioner asserts her "specialization in financial and administrative management could significantly contribute to improving the financial health of businesses, leading to increased employment opportunities and economic prosperity." The Petitioner does not cite any evidence to support this claim. Rather, the Petitioner claims her proposed endeavor "aligns with the White House's initiative to promote small business growth" and she "will significantly contribute to the success of this initiative" through her expertise and skills. The Petitioner's former employers praise the Petitioner's past work in financial matters, but they do not discuss how her proposed endeavor would have any economic effect beyond the individual businesses at which she may be employed in the future. For example, [redacted] states the Petitioner "showed her expertise by executing and assisting the financial budget, which brought a very significant result for the institution" and "strongly recommend[s] her as a distinguished professional." Ms. [redacted] does not, however, discuss the Petitioner's proposed endeavor or otherwise indicate that the Petitioner's work as a business manager would have significant positive economic benefits beyond the individual companies that may employ her in the future.

On appeal, the Petitioner last asserts the Director did not consider her ability to foster cultural diversity and inclusion, social welfare, and cultural enrichment. The record does not specify how the Petitioner, as a business manager, would foster cultural diversity and inclusion, social welfare, and cultural enrichment, on a level of national importance. The Petitioner claims that with "her expertise in negotiating with suppliers from diverse backgrounds, [she] could contribute to multiculturalism within businesses and society at large, enriching the overall cultural fabric." The Petitioner does not cite any evidence to support this claim. In their letters, her former employers do not mention her work with suppliers or discuss how her proposed endeavor would foster cultural diversity and inclusion, social welfare, and cultural enrichment on a level of national importance.

The relevant evidence does not demonstrate the national importance of the Petitioner's proposed endeavor. 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 record does not show that the Petitioner's proposed endeavor would sufficiently extend beyond her potential employers to impact her field more broadly at a level commensurate with national importance. Consequently, the Petitioner 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).

The Petitioner 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.