U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31477247

Date: JUNE 18, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a civil engineer of water and sewer infrastructure, 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 determining 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. 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.

Id.

[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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 is a civil engineer who proposes to be a consultant to private companies and public entities in the United States on the development of water and sewer systems and the integration of green practices. In her statements submitted initially and in response to the Director's request for evidence (RFE), the Petitioner stated she would provide specialized advice to private companies in design development with water optimization and management methodologies, based on Environmental Protection Agency (EPA) models, and implementation of green infrastructure. The Petitioner also proposed advising public water and sewer departments on improved water and sewer master plans for cities and counties, and the integration of Low Impact Development and Water Sensitive Urban Design practices. The Petitioner stated her work would also address the reduction of gray infrastructure, reuse of rainwater for non-potable use, and mitigation of flooding and other environmental factors.

The Director determined that 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.

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. *Id.* 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 other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that her proposed endeavor had implications beyond prospective clients or offered broad implications to her field that rise to the level of national importance.

On appeal, the Petitioner asserts that the Director erroneously imposed a requirement of national implications and did not address all the relevant evidence of the national importance of the Petitioner's proposed endeavor. Although the Director mentioned national implications when referring to *Matter of Dhanasar* and did not specifically address all of the relevant evidence in detail, de novo review of all the evidence demonstrates no error in their ultimate determination. When USCIS provides a reasoned consideration of the petition, and has made adequate findings, it will not be required to specifically address each claim a petitioner makes, nor is it necessary for it to address every piece of evidence a petitioner presents. *See Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *aff'd Morales v. INS*, 208 F.3d 323, 328 (1st Cir. 2000);

see also Pakasi v. Holder, 577 F.3d 44, 48 (1st Cir. 2009); and *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009).

The Petitioner submitted articles that she claims demonstrate her proposed endeavor aligns with U.S. government interests. We acknowledge the documentation the Petitioner submitted concerning water and sewage infrastructure, flood risks and costs, the shortage of civil engineers in the United States, healthcare costs of waterborne disease here, climate change impacts in the country, the benefits of Low Impact Development, EPA water infrastructure grant programs, and federal funding to reduce effects of climate change. These articles attest to the importance of the Petitioner's field, but the determination of national importance does not focus on the importance of the field in general, rather it "focuses on the specific endeavor that the foreign national proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889. Here, the articles do not mention the Petitioner or address the national importance of her specific proposed endeavor.

The Petitioner also asserts the Director disregarded her letters of recommendation which establish "the national importance of the proposed endeavor from an economic and social welfare standpoint." Although the Director did not discuss in detail the content of all the recommendation letters, those letters and other relevant evidence do not support the Petitioner's claim. The Petitioner submitted letters from past employers and colleagues in Colombia, and an evaluation of her qualifications by [redacted] Adjunct Professor at the [redacted] The Petitioner's past employers and colleagues praise the Petitioner's work at [redacted] and express confidence in her ability to succeed in the United States. The authors do not, however, specify how the Petitioner's consultancy work has potential national or even global implications within the field, or other broader implications of national importance. For example, [redacted] speaks highly of the Petitioner's past work and certifies "that she is able to keep developing professionally while imparting knowledge to both public and private entities inside and outside of our country." [redacted] states that given the Petitioner's expertise and potential, she "would be a fantastic element for the development of your country." Mr. [redacted] and Ms. [redacted] do not, however, specify how the Petitioner's proposed endeavor would have broader implications to her field that rise to the level of national importance.

Professor [redacted] states the Petitioner's endeavor "will contribute to the growth of the Management Consulting Industry" in the United States, and "has significant potential to employ U.S. workers and has other substantial positive economic effects." However, the Petitioner proposes to be a self-employed consultant who would not directly employ any individuals. Professor [redacted] further states that the Petitioner's endeavor is aligned with the Biden Administration's initiative to attract STEM talent, but he does not specify how her consultancy for individual entities will have a broader impact on her field. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it relates 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 record does not show that the Petitioner's proposed endeavor would sufficiently extend beyond her potential clientele 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 our 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.