U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31474354

Date: JUNE 21, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an agricultural engineer, 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 did not establish 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
- 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 an agricultural engineer who holds a doctoral degree in economic agro-industrial problems from [redacted] in Mexico. 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. Proposed Endeavor

The Petitioner initially submitted a personal plan describing her proposed endeavor as "strengthening soft skills and social capital based on biblical values." The Petitioner identified her "potential target groups" as "Latin Immigrants of Christian Churches" and identified potential partners as evangelical churches, theological seminaries, small rural or suburban producer associations, and evangelical Christian high schools. The Petitioner proposed to work in "rural areas and peri-urban areas of States with greater influx of Latinos." The Petitioner stated she would conduct twelve training workshops for trainers to replicate the "Values Strengthening Strategy aimed at strengthening soft skills and social capital."

In response to the Director's request for evidence, the Petitioner submitted a new personal plan entitled "institutionalization of ethical values in the agricultural field of the United States." The Petitioner identified her "potential target groups" as farmers, ranchers, agronomy and natural resource management students, agronomists, international cooperation agencies, and the U.S. Department of Agriculture (USDA). She identified potential partners including agricultural associations, colleges, entrepreneurs, engineers, and non-governmental organization (NGO) technical staff. The Petitioner proposed to work in "states with agricultural production." The Petitioner stated she would propose an academic strategy to agricultural schools, implement an awareness strategy, improve the profitability of crops, socialize her project with USDA, NGOs, and international cooperation agencies, promote student theses on ethical values in agriculture regenerative production, and create jobs for agricultural engineers committed to ethical responsibility.

The Director determined the Petitioner's new proposal was a material change to her petition. We agree. Subsequent material changes to a petition cannot be considered. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Assoc. Comm'r 1998) (holding "a petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to Service requirements"). The Petitioner must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(1); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971) (providing that "Congress did not intend that a petition that was properly denied because the beneficiary was not at that time qualified be subsequently approved at a future date when the beneficiary may become qualified under a new set of facts").

On appeal, the Petitioner claims her new proposal is not a change, but a complement to her original plan because the foundation of both projects is ethical values. The Petitioner does not acknowledge that the target groups, potential partners, work areas, and methods of her two proposals are different. The Petitioner concedes that she submitted the second proposal "to respond to the request to attach

more evidence." The Petitioner's second personal plan contains material changes and cannot be considered in an assessment of her eligibility for a national interest waiver. *See Matter of Izummi*, 22 I&N Dec. at 175. Consequently, we address only the Petitioner's first proposed endeavor in our assessment of her eligibility.

B. 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 endeavor, that it would have broader implications in her field, or that it would have substantial positive economic effects.

On appeal, the Petitioner states "it is not possible" for her "to quantify the economic impact" of her proposed endeavor but claims it will nonetheless have economic effects because strengthening soft skills "complements DOL's work that promotes the well-being of workers, job seekers and retirees." Without independent evidence to support her claim, the Petitioner has not demonstrated that her specific proposed endeavor has significant potential to employ U.S. workers, particularly in an economically depressed area, or has other substantial positive economic effects that *Dhanasar* recognized as indicating national importance. *See id.* at 890.

The Petitioner asserts her proposed endeavor has national importance because "in the United States there is a marked and progressive loss of values" and a "need for an ethical approach." The Petitioner initially submitted articles and excerpts of articles concerning soft skills, child well-being, teen girls experiencing increased sadness and violence, values and ethics for the twenty-first century, depressive symptoms among recent Latinx immigrants in South Florida, social capital and economic crisis in the United States, data of Hispanic and Latino households, the 2023 fiscal year U.S. government budget, and value crisis. The determination of national importance does not focus on the importance of the field in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles mention the Petitioner or her plan, or otherwise address the potential prospective impact of her proposed endeavor.

The Petitioner initially submitted letters from Dr. [redacted] and Dr. [redacted] Dr. [redacted] praised the Petitioner's contributions to the measurement of social capital and described her as "a highly competent and dedicated professional in her field of study." Dr. [redacted] stated the Petitioner "stood out for her expertise in the exercise of technical professional incorporating

social issues, especially related to social capital, levels of relationship and values," and referenced her work with rubber, citrus, quinoa, and other producers. Although the letters may help establish that the Petitioner is well positioned to advance her endeavor, Dr. [redacted] and Dr. [redacted] did not discuss the Petitioner's proposed endeavor or its prospective impact.

On appeal, the Petitioner submits additional letters from Dr. [redacted] and Rev. [redacted] Rev. [redacted] praises the Petitioner's work as a translator for his church's Latinx members and states she has become a member of a Canadian and U.S. organization of churches with which she looks forward to consulting on work with Latinx residents of both countries. Mr. [redacted] Eastern U.S. Regional Mission Leader of [redacted] states he seeks to collaborate with the Petitioner to develop projects promoting the well-being of the community which "have the potential to enfold local leaders and hire volunteer staff." Ms. [redacted] praises the Petitioner's volunteer work with her organization, [redacted] and states she "would be an asset to anyone in need, but in particular to those who [are] in the Latino community." Dr. [redacted] President of [redacted] states he considers the Petitioner's project to be "relevant and valuable for the American reality, which it is increasingly being affected by the loss of moral values" and recommends the Petitioner as "a valuable professional to [the] United States." Although they praise her contributions to some of their organizations, Mr. [redacted] Rev. [redacted] Dr. [redacted] and Ms. [redacted] do not specifically address the Petitioner's proposed endeavor or any broader implications of the Petitioner's work in 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).

The Petitioner states the goal of her project is for 70,000 Evangelical Christians to receive awareness of the loss of values and improve their soft skills and social capital. The Petitioner projects that these people could each share their skills with at least one other person so that 140,000 people would be reached "from different states and that constitutes the national importance of this project." The Petitioner does not specify how she would reach 70,000 people initially through her proposed twelve training workshops or other means, or how those individuals would transmit their skills to others.

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 trainees to impact the field of soft skills and social capital more broadly at a level commensurate with national importance.

C. 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.