U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37267906

Date: MAR. 14, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a health care services 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 that the Petitioner had not established the national importance of his proposed endeavor, among other findings. 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.

On appeal, the Petitioner re-asserts her claim of eligibility for the national interest waiver, including the national importance of her proposed endeavor, by reiterating that her pediatric physical therapy consulting firm would significantly improve healthcare outcomes for children. She contended that early, effective interventions for children with disabilities leads to better long-term outcomes, reducing medical costs and improving quality of life. The Petitioner elaborated her claim of employing U.S. workers and creating positive economic effects in depressed areas by explaining that her trainings would address the growing shortage of qualified pediatric specialists and physical therapists in the Unites States. She also claimed that she would collaborate with non-governmental organizations and community initiatives.

We adopt and affirm the Director's decision relating only to prong one of the *Dhanasar* analysis regarding national importance with the comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

The Petitioner must establish the national importance of her proposed endeavor rather than the importance of pediatric physical therapy field. In other words, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. In determining national importance, "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* at 889.

In *Dhanasar*, we also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. Such effects need not be national in scale but must demonstrate a potential prospective impact that is "substantial" to a particular area, region, or industry.

We agree with the Director that the Petitioner has not established that the impact of her proposed endeavor extends beyond her future clients to impact the field of pediatric physical therapy at a level commensurate with national importance. We also conclude that the Petitioner has not provided independent, corroborating evidence to support her claims that her trainings, or other work of her firm, would create broader impact on the field or economic effects. She did not, for example, support these claims with evidence such as documents regarding potential partners and possible clients. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (a petitioner must support assertions with relevant, probative, and credible evidence).

Because the Petitioner did not establish the national importance of her proposed endeavor as required by the first prong of our *Dhanasar* precedent decision, she has not demonstrated eligibility for a national interest waiver, as a matter of discretion. Further analysis of the remaining eligibility requirements, therefore, would serve no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

However, the record also indicates that the Petitioner may not be eligible for the underlying EB-2 visa classification as an advanced degree professional. 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. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. If a doctoral degree is customarily required for the specialty, the non-citizen must possess a U.S. doctorate or a foreign equivalent degree. 8 C.F.R. § 204.5(k)(2). The Petitioner submitted a diploma and transcript for her *titulo de mestre em ciencias* (master of science degree) from her native Brazil, which is a two-year masters-level program. Per to the "How to Become a Physical Therapist" section of the *Occupational Outlook Handbook* (*OOH*) entry for Physical Therapists,[1] physical therapists entering the occupation must have a doctor of physical therapy degree. Although we will reserve this issue as it is otherwise dispositive of our appeal dismissal, the Petitioner should address this eligibility requirement in future filings.

[1] *See* Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Physical Therapists, at https://www.bls.gov/ooh/healthcare/physical-therapists.htm (August 29, 2024).

In conclusion, as the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.