U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37385602

Date: MAY 9, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a human resources manager and entrepreneur in the field of human resources management, seeks employment-based second preference (EB-2) immigrant classification as either 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 record did not establish the Petitioner is eligible for the underlying EB-2 classification or 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 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

To qualify for the underlying 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. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation

that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[1] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. *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,[2] 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.

II. ANALYSIS

A. EB-2 Visa Classification

As indicated above, the Petitioner must first demonstrate qualification for the underlying EB-2 visa classification. Section 203(b)(2)(B)(i) of the Act. The Director determined the Petitioner does not qualify for EB-2 classification. While we agree with the Director's ultimate conclusion, we disagree with the Director's determination that the Petitioner possesses the equivalent of U.S. bachelor's degree and hereby withdraw it.

As evidence of her advanced degree, the Petitioner submitted copies of her diploma and certificate from the [redacted] showing that upon completion of the psychology course, she received the title of psychologist and a "*Titulo de Especialista*" in strategic people management, respectively. The Petitioner did not provide a copy of her transcript for her diploma in psychology but she did provide it for the "*Titulo de Especialista*" which shows one year of studies, 2007 to 2008. According to the American Association of Collegiate Registrars and Admissions Officers' (AACRAO) Electronic Database for Global Education (EDGE), "[t]he *Especialização/Título de Especialista* represents attainment of a level of education comparable

[1] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

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

to up to 1 year of graduate study in the United States."[3] Therefore, a "*Titulo de Especialista*" certificate is not the foreign degree equivalent of a U.S. master's degree.

The Petitioner also submitted a credential evaluation concluding that her title of psychologist diploma is the foreign equivalent of a U.S. bachelor's degree based on academic qualifications alone. EDGE states:

> The *3-year Título de Bacharel/Grau de Bacharel* represents attainment of a level of education comparable to 3 years of university study in the United States. Credit may be awarded on a course-by-course basis. The *4-* or *5-year Título de Bacharel/Grau de Bacharel* represents attainment of a level of education comparable to a bachelor's degree in the United States.

Here, while we acknowledge that the evaluator indicates that the Petitioner completed four years of academic coursework, she does not list the documents replied upon to reach her conclusions or address the information in EDGE. We may, in our discretion, use an evaluation of a person's foreign education as an advisory opinion. *Matter of Sea, Inc.*, 19 I&N Dec. 817, 820 (Comm'r 1988). However, where an opinion is not in accord with other information or is in any way questionable, we may discount or give less weight to that evaluation. *Id.* Therefore, absent the transcript of the Petitioner's undergraduate degree demonstrating four years of study, she has not sufficiently established that she received a degree equivalent to a U.S. bachelor's degree and we cannot conclude that she holds an advanced degree. *See* 8 C.F.R. § 204.5(k)(3) (requiring the submission of an official academic record).

In addition, while the Petitioner initially claimed she qualifies for EB-2 classification as an individual of exceptional ability, the Director did not address this issue. Since the evidence in the record does not establish by a preponderance of the evidence that the Petitioner is eligible for, or otherwise merits, a national interest waiver as a matter of discretion, we will reserve the issue of whether she qualifies for EB-2 classification as an individual of exceptional ability for future consideration should the need arise. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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 alternate issues on appeal where an applicant is otherwise ineligible).

B. National Interest Waiver

The Petitioner proposed to establish a human resources (HR) consulting firm in [redacted] Florida. The Petitioner stated the company's goal "is to help companies improve their employees' performance and maximize their workforce's potential" by "providing comprehensive HR consulting services, including recruitment and selection, employee training and development, performance appraisal, talent

[3] We consider EDGE to be a reliable source of information about foreign credential equivalencies. *See Confluence Intern., Inc. v. Holder,* Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). *See also Viraj, LLC v. Holder,* No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013). For more information, visit https://www.aacrao.org/edge.

management, organizational change management, succession planning, HR policies and practices, compensation and benefits management and more."

The Director determined the Petitioner's proposed endeavor did not have substantial merit. However, evidence in the record establishes that the Petitioner's proposed endeavor has substantial merit, and we withdraw the Director's determination to the contrary.

Turning to the national importance of her endeavor, the Director concluded the Petitioner did not establish that her proposed endeavor has national importance. On appeal, the Petitioner disagrees with the Director's conclusion and states that the documents on appeal "more than adequately complement the previously submitted objective documentary evidence establishing the national importance" of the proposed endeavor.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. We look for broader implications in the Petitioner's field or industry. An 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 889-890.

In support of national importance, the Petitioner asserts her proposed endeavor has "substantial economic, social, and environmental benefits, making it advantageous for the United States" and that it "will significantly contribute to the U.S. economy, business development, and sustainable growth." The Petitioner also states her endeavor "offers a unique and valuable solution that not only enhances the efficiency and competitiveness of U.S. businesses but also aligns with broader national priorities related to employment, sustainability, and social responsibility." The Petitioner, however, has not provided evidence demonstrating that her proposed endeavor would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the asserted potential prospective impact of her proposed endeavor stands to offer broader implications in her industry or to generate substantial positive economic effects. 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, we conclude the Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her future clients and employer(s) to impact her field of human resources management, the economy, or U.S. societal welfare more broadly at a level commensurate with national importance.

Specifically, we reviewed the Petitioner's business plan, which asserts that the company will employ 12 employees, pay over $400,000 in payroll expenses, and generate a net profit of over $80,000 by its fifth year. The business plan also shows that a Regional Input-Output Modeling System (RIMS II) projects that the company will indirectly create 234 jobs in the next five years. The Petitioner, however, does not provide sufficient detail of the basis of these projections, or adequately explain how these staffing targets and revenue forecasts will reach the level of national importance contemplated in *Dhanasar*. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to her future work, the record does

not show that the benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Matter of Dhanasar*, 26 I&N Dec. at 890.

The Petitioner also notes that her proposed endeavor aligns with numerous national initiatives. However, merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Id.* at 889. Instead, when determining whether the proposed endeavor has national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* Thus, while we acknowledge that the human resources industry is important, this fact is insufficient to establish the national importance of her proposed endeavor.

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address her eligibility under the remaining prongs, and we hereby reserve them. *See INS v. Bagamasbad,* 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. The burden of proof is on the Petitioner to establish that she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that she has not established eligibility for a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.