U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34749680

Date: NOV. 18, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a furniture design 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 Nebraska Service Center denied the petition, concluding the Petitioner did not establish that she is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. 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 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.

II. ANALYSIS

The Director found that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree. The issue on appeal is whether the Petitioner established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Director determined that the Petitioner did not demonstrate her proposed endeavor has substantial merit or is of national importance, as required by the first prong of the Dhanasar analytical framework. The Director further determined that the Petitioner did not establish that she is well-positioned to advance the proposed endeavor under *Dhanasar's* second prong, or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification under *Dhanasar's* third prong. Upon de novo review, we agree with the Director's determination that the Petitioner did not demonstrate that a waiver of the labor certification would be in the national interest.[2]

The first prong of the Dhanasar analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner proposes to undertake. The endeavor's merit may be demonstrated in a range of areas, such as business, entrepreneurialism, science, technology, culture, health, or education. In determining 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.

The Petitioner proposes to work in the United States as a furniture design manager with a focus on the design of Chinese-style and wooden furniture. Initially, she intends to work for an interior design company in either Arizona or Tennessee for which she would lead a team of three furniture designers. Within three years, she intends to establish and manage her own interior design business. The Petitioner would design furniture for U.S. customers to meet consumer demands for Chinese furniture. In addition, she may also work part-time for a yet to be established association in California, [redacted] as chief editor of its furniture business magazine and as an organizer of design skill trainings and academic exchange events. Based on the foregoing, the Petitioner has established her proposed endeavor has substantial merit, and we withdraw the Director's determination to the contrary.

[1] See Flores v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).
[2] While we may not discuss every document submitted, we have reviewed and considered each one.

With respect to national importance, the Director found that the Petitioner did not demonstrate that her proposed endeavor would extend beyond her prospective clients to impact her field more broadly. In addition, the Director indicated that the Petitioner did not show that the endeavor has the potential to offer substantial economic benefits to the nation or the region it intends to serve, or other techniques or methods distinct from those in a similar business to represent improvement or innovation in her field with the potential to have a broader impact commensurate with national importance.

On appeal, the Petitioner contends the Director erred in the denial decision, overlooking details and providing analysis unrelated to her petition. She maintains that she explained in detail the reasons her endeavor is of national importance and submitted objective evidence sufficiently supporting the broader implications of her endeavor. With the appeal, the Petitioner includes evidence previously submitted with her petition, including industry articles and a letter from a colleague who is interested in assisting her with her endeavor. Upon de novo review, the Petitioner has not demonstrated that her proposed endeavor satisfies the national importance element of *Dhanasar's* first prong, as discussed below.

The standard of proof in this proceeding is a preponderance of the evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. Matter of Chawathe, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. Id.; Matter of E-M-, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, the Director properly analyzed the Petitioner's documentation and weighed the evidence to evaluate the Petitioner's eligibility, but determined that the evidence overall lacked probative value to demonstrate the national importance of her endeavor by a preponderance of the evidence.

The Petitioner claims that her proposed endeavor has national importance because it would improve U.S. persons' quality of life and work environment by providing well-designed furniture; help meet the increasing demand for professional interior designers in the United States; support protection of the environment; and facilitate innovation in the U.S. furniture industry and other related industries. The Petitioner's statements stress the benefits of interior design, including its aesthetic and functional benefits for residential, office, and commercial spaces. In addition, she maintains her endeavor's focus on designing Chinese-style and wooden furniture has the potential to have economic impacts by helping to meet the U.S. consumer demand for a variety of furniture products and reducing U.S. dependence on furniture imported from China. Because her endeavor would enhance furniture product sales and elevate the image of client businesses, she would increase revenues for furniture companies and provide economic benefits to related industries, such as hospitality, real estate, and construction material. Moreover, by designing Chinese-style furniture in the United States, she claims the United States would more easily meet the demand for Chinese-style furniture with her U.S. designed and manufactured furniture products, thereby reducing U.S. dependence on importing furniture from China.

To support her statements, the Petitioner argues that she submitted industry articles which provide objective evidence demonstrating the national impact of her endeavor. The record includes industry articles relating to the importance and benefits of the fields of furniture design and interior design; the relationship between interior design and furniture design; the economic benefits to businesses for investing in good interior design; how to grow a furniture business; the benefits and appeal of Chinese-

style furniture, the increasing decline of importing furniture from China; the increasing demand for wood furniture; U.S. favoritism of environmental protection; a market analysis of interior design; and the expected growth of the interior design industry.

We recognize the importance and benefits of the field of furniture design and related careers. However, merely working as a furniture design manager in the interior design field or starting an interior design business with a focus on the design of Chinese-style and wooden furniture is insufficient to establish the national importance of the proposed endeavor. The growth and importance of an industry or working in a field with a shortage of workers are not sufficient to meet the national importance requirement under the Dhanasar framework. Instead of focusing on the importance of an industry or field, or a shortage of workers in a field, we focus on the "the specific endeavor that the foreign national proposes to undertake" and consider the endeavor's "potential prospective impact." Matter of Dhanasar, 26 I&N Dec. at 889.

In Dhanasar, we noted that "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. 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. Here, the evidence does not suggest that the Petitioner's proposed endeavor to work as a furniture design manager and to establish an interior design business in a potentially growing industry with a shortage of workers would impact the field of interior design or the U.S. economy more broadly. Here, the Petitioner has not established that her proposed endeavor stands to impact or significantly reduce the claimed shortage of workers in her field. Moreover, the U.S. Department of Labor, through the labor certification process, directly addresses such shortages of qualified workers. The articles submitted do not discuss any projected U.S. economic impact, job creation, societal welfare, or cultural benefits specifically attributable to the Petitioner's proposed endeavor.

In addition, the Petitioner argues that the Director erred in the facts of the case and did not carefully review her submitted evidence. For instance, she points out that in the decision's analysis of Dhanasar's first prong, the Director references her resume and a letter of support. She maintains that instead of showing the national importance of her endeavor, the letter was submitted to show a person in the United States is interested in her endeavor, while her resume was submitted to provide a general overview of her employment history. We acknowledge evidence from potential employers or clients and persons of interest for the Petitioner's proposed endeavor relates to *Dhanasar's* second prong which "shifts the focus from the proposed endeavor to the foreign national." Matter of Dhanasar, 26 I&N Dec. at 889. However, given that much of the Petitioner's evidence submitted in support of Dhanasar's first prong addresses the industry or profession in which she intends to work without discussing her specific proposed endeavor and its specific impact, the Director properly reviewed the totality of evidence on record, including the letter of intent and her resume to determine whether the endeavor has national importance. Moreover, the Director did consider multiple letters of support and her resume in the analysis of *Dhanasar's* second prong.

The Petitioner has not demonstrated that her proposed endeavor has the potential to extend beyond her prospective employers, future clients, and business to impact the field or any other industries or the U.S. economy, societal welfare, or culture more broadly at a level commensurate with national

importance. Beyond general assertions, she has not demonstrated that the work she proposes to undertake as a furniture design manager offers the claimed innovations that contribute to advancements in the interior design and furniture design fields or otherwise has broader implications for her fields. Statements and claims alone are not sufficient to demonstrate the national importance of her proposed endeavor. Assertions made without supporting documentation are of limited probative value and do not carry the weight to satisfy the Petitioner's burden of proof. See Matter of Soffici, 22 I&N Dec. 158, 165 (Comm'r 1998). The economic, societal welfare, cultural, and innovation benefits that the Petitioner claims depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between her proposed interior design manager work and the claimed results.

The documentation in the record does not sufficiently establish the national importance of the Petitioner's proposed endeavor as required by the first prong of the Dhanasar precedent decision, and therefore she has not demonstrated eligibility for a national interest waiver. Because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve her appellate arguments regarding her eligibility under the second and third prongs. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (noting 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

As the Petitioner has not established eligibility under the requisite first prong of the Dhanasar analytical framework, she is not eligible for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.