U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33966963

Date: OCT. 10, 2024

Appeal of Texas Service Center Decision

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

The Petitioner seeks second preference 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 EB-2 immigrant 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 qualified for the EB-2 classification as a member of the professions holding an advanced degree, but that 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 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 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 as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 (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:

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts to conclude the national interest waiver determination is discretionary in nature).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well positioned to advance the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

Id. at 889.

II. ANALYSIS

The Petitioner filed this petition in October 2023. At the time of filing, the Petitioner was a doctoral research student in the field of nutrition science at [redacted] in Washington DC. According to her school transcript, as of March 2023, the Petitioner has completed, three semesters of her PhD coursework and was in the process of completing her fourth semester. In addition to her coursework, the Petitioner provided evidence to establish she is a graduate assistant at [redacted] and that she is engaged in research and teaching in nutrition science. After analyzing the initial evidence, the Director issued a request for evidence (RFE), noting deficiencies in the record, to which the Petitioner timely responded.

The Director determined the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree based on her U.S. master's degree in project management from [redacted] in Maryland, which she earned in May 2020. We agree. 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.

A. Prong One of the *Dhanasar* Framework

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake and its "potential prospective impact." *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer. *Id.* As such, we will first identify the Petitioner's endeavor as shown in the record. Then, we will evaluate the Petitioner's evidence in support of the endeavor's substantial merit and national importance.

B. The Proposed Endeavor

The Petitioner's proposed endeavor is described in her initial personal statement where she explains that she studies the effects of seaweed consumption on the microbiota of obese mice. She intends to continue researching this topic with the goal of determining if inclusion of seaweed vegetables in a western-type diet promotes healthy microbial profiles in the gut and reduces the development of inflammation, obesity, and metabolic dysfunction. She explains that "to [her] knowledge, no study

has clearly demonstrated how a seaweed vegetables-based diet changes the microbiome population, leading to a change in body weight." She also highlights that her research has been published in the following publications: Dietary Supplements and Nutraceuticals; and Functional Food Science. In her RFE response, the Petitioner provides an additional personal statement in which she explains that she will use her research on seaweed consumption to offer solutions to global obesity, and that she will employ her research and skills in machine learning and artificial intelligence to understand the complex interaction between seaweed's components, microbiota, and human metabolism to yield results that benefit society. Among the intended results, the Petitioner explains that her research will "pioneer nutrition-based solutions that harness the power of marine bioresources for global health improvement, leveraging the gut microbiota's role" to make healthier "microbial profiles," reduce obesity, improve metabolic function, and contribute to the field of nutrition sciences and potential dietary interventions for obesity management. And on appeal, the Petitioner provides a statement in which she contends that the Director erred and seeks a review of her application "in detail and without bias." Upon de novo review, for the reasons stated below, the record does not include sufficient information or supporting evidence to establish the national importance of her proposed endeavor and its prospective impact.

C. Analysis of Prong One of the *Dhanasar* Framework

The Director determined that the Petitioner's proposed endeavor is of substantial merit. As stated above, an endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. Therefore, we agree with the Director's determination. However, while the Petitioner has established her proposed endeavor has substantial merit, she has not established its national importance, for the following reasons.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. *Matter of Dhanasar*, 26 I&N Dec. at 889. Furthermore, in *Dhanasar* we noted that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* The Petitioner asserts that the potential prospective impact of her proposed endeavor extends to public health and nutrition policy including a reevaluation of the nutritional guidelines. She asserts her research may lead to ecofriendly alternatives to current obesity management strategies, as well as highlight the importance of dietary diversity, and the nutritional value of underutilized food sources that will "unlock" the full potential of functional foods. The Petitioner asserts her endeavor advances national and global initiatives to combat hunger, and that multiple societal and economic benefits would flow from her endeavor, including investments in seaweed farming, which could transform fragile coastal communities by creating a sustainable way to alleviate poverty.

In evaluating the national importance of Dr. Dhanasar's proposed endeavor, we gave significant weight to "probative expert letters from individuals holding senior positions in academia, government, and industry that describe the importance of hypersonic propulsion research as it relates to U.S. strategic interests" and "detailed expert letters describing U.S. Government interest" in his specific research. *Matter of Dhanasar*, 26 I&N Dec. at 892. USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign

national's eligibility, thus, the submission of these support letters is not presumptive evidence of eligibility. *Id., see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value).

Although the Petitioner has provided multiple letters of support for her research, the letters do not sufficiently explain how her research will impact the field of nutrition science or matters of national or global importance more broadly. *See Matter of Chawathe*, 25 I&N Dec. at 375 (standing for the proposition that to determine whether a petitioner has met their burden under the preponderance standard, we consider the quality, relevance, probative value, and credibility of the evidence). First, many of the letters are from professors in the department where the Petitioner is pursuing her graduate studies, and while they describe her work in glowing terms, they do not provide enough detail to understand her endeavor's national importance.[2] *Matter of Chawathe*, 25 I&N Dec. at 375-76. Second, some of the letters lack the objectivity necessary for us to understand the national or global impact of her work, or its broader implications. For example, in one letter, the Petitioner's research is described as "groundbreaking," "trailbreaking," and with the "potential to revolutionize the way we approach nutrition and health," however these statements lack context. *Id.* Third, like the Petitioner, many of the writers emphasize the toll that obesity and a lack of proper nutrition have on society, but they do not provide a sufficient explanation to understand how the Petitioner's research will alleviate these problems. *Id.* Fourth, another writer, a professor of medicine at [redacted] appears to parrot the Petitioner's assertions that her research is innovative because it incorporates machine learning techniques and artificial intelligence.[3] The writer explains that the Petitioner's innovative research "amplifies the potential for significant contributions to our understanding of obesity's underlying mechanisms and effective interactions." The writer, however, fails to explain why the Petitioner's use of these technologies will amplify the impact of her research in a national, or even global, manner or implicate matters of national importance more broadly. *Id.* Lastly, a writer describes how the Petitioner's published research in peer-reviewed journals demonstrates the impact of her work, because it shows "her research has been circulated internationally, providing her peers with valuable information applicable to their scientific efforts." However, this statement does not conform with the fact that the Petitioner's published materials have been infrequently cited, and no information is provided to explain the contradiction.[4] *Id.*

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[2] For purposes of any future petition, we note that some of the reference letters lack signatures that conform to our signature policy which prohibits signatures created by typewriter, auto-pen, stamp, or other similar device. *See* 1 USCIS Policy Manual B.2, https://www.uscis.gov/policy-manual ("Signatures").

[3] We note that the Petitioner's initial description of her proposed endeavor does not include any mention of artificial intelligence or machine learning technologies. The inclusion of these assertions in response to the Director's RFE reduces the probative value of her statements, and may implicate *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998) (standing for the proposition that a petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements).

[4] Google scholar notes the Petitioner has published the following three articles: 1) [redacted] 2) [redacted] and 3) [redacted] Her third publication has been cited twice, while the other two publications show no citations. *See*, https://scholar.google.com/scholar[redacted]

Other letters provide general support for her proposed endeavor but are insufficient to understand how her research will have a broader impact. For example, one writer, an assistant professor at the [redacted] of Medicine and Science, explains that the Petitioner's proposed endeavor is of national importance because it aligns with national initiatives and may have implications on reproduction in women of childbearing age, and public health. Another writer also generally explains that the Petitioner's research will have economic impacts because obesity has a societal cost but offers insufficient details to bolster this statement. We acknowledge these assertions, which speak to the substantial merit of the Petitioner's endeavor, however, they are insufficient to establish the endeavor's national importance. *Id.* In analyzing a proposed endeavor's national importance, *Dhanasar* requires us to look beyond the field of endeavor, to examine the specific endeavor the Petitioner proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. Here, while we acknowledge the fields of nutrition, obesity management, and sustainable farming may be subjects of national or global initiatives, the Petitioner's proposed endeavor does not encompass a significant enough space in any of these fields to be considered of national importance. For example, in *Dhanasar,* we determined that the petitioner's teaching activities at a U.S. university did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. This is because in general, the benefit of teaching is only directly beneficial to the students being taught and not the wider population. *Id.* And, while one could argue that teaching one person has a broader impact because that individual now has knowledge they could impart to others, the connection between teaching one person and the broader impact that results from that knowledge is too amorphous to consider the endeavor itself to be of national importance. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

Although the Petitioner asserts her endeavor could have potential impacts on the economy and societal welfare, she does not provide sufficient evidence to support these assertions. *Matter of Chawathe*, 25 I&N Dec. at 375-76. For example, to support her assertions that her endeavor has national and global implications on public health and nutrition policy, she provides evidence that the World Bank funds initiatives to combat hunger and that the National Institute of Food and Agriculture created a small business innovation research program to support research and development. She also provides news articles to understand the societal problem of obesity, the importance of nutrition, the role of seaweed to improve digestion because of the phytochemicals found in seaweed, and Biden Administration fact sheets discussing government initiatives to combat hunger and improve nutrition to create stronger communities. While we acknowledge the articles and reports provide a context for understanding the Petitioner's assertions, and helps establish the substantial merit of her endeavor, because none of the documents discuss the Petitioner's research or her proposed endeavor, the information does not establish its national importance through any asserted or cognizable positive economic effects or potential prospective impact on the economy and societal welfare. *Id.* Moreover, while a reference letter generally explains that the Petitioner's research will have economic impacts because obesity has a societal cost, this letter does not provide sufficient detail to understand how her endeavor will alleviate the societal costs of obesity. *Id.*

Finally, we acknowledge the Petitioner's evidence of her academic activities including: the presentation of her research at conferences and symposia; submission and inclusion of her research posters in academic gatherings; the inclusion of her research as a book chapter; her receipt of a $500 travel grant; her research publications; and her membership in professional associations. However, this information is considered as part of our analysis of *Dhanasar's* second prong, where we examine

whether a petitioner is well positioned to advance the endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 890.

Because a petitioner must establish that they meet all three prongs of the *Dhanasar* framework to obtain a national interest waiver, if even one of the prongs is not established, a petitioner is ineligible for this waiver. Accordingly, because she has not established her eligibility under prong one, we decline to reach and hereby reserve the Petitioner's arguments regarding the second and third prongs of the *Dhanasar* framework. *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 met the first prong of the *Dhanasar* analytical framework, we find that she has not established eligibility 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.