U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34508477

Date: OCT. 31, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a business management and restructuring consultant, 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 did not establish eligibility for a national interest waiver of the job offer requirement. 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.

On appeal, the Petitioner presents additional articles relating to the state of small businesses in the United States. The Petitioner asserts that he has established the national importance of his proposed endeavor as required by our precedent decision in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). The Petitioner asserts that the Director conducted an insufficient analysis of the record evidence or failed to consider relevant evidence, particularly the details laid out in the Petitioner's business plan.

We adopt and affirm the Director's decision regarding the first prong of the *Dhanasar* precedent decision. *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 has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

We see no indication that the Director failed to consider the provided evidence. Contrary to the Petitioner's assertion, the Director appears to have fully reviewed the business plan, as the decision provides details of that business plan and analyzes their impact on the decision. The Petitioner further asserts that the submitted industry articles are demonstrably linked to the proposed endeavor, because

his intended consulting activities will impact the small and medium enterprises sector. However, the Director considered this proposed endeavor in detail and ultimately noted that the national importance of this endeavor to the sector had not been demonstrated. We have also reviewed the Petitioner's contentions on appeal that he is proposing to implement a new and innovative methodology in this market. However, the appeal again focuses on the Petitioner's experience in business and his background in "identifying and implementing strategies to optimize business processes" rather than laying out a particularized methodology. We do not doubt that the Petitioner is skilled in business restructuring and optimization, however, as noted by the Director, the anticipated impact from his consulting activities does not rise to the level of national importance.

Because the record does not establish the national importance of the proposed endeavor, the Petitioner has not demonstrated eligibility for a national interest waiver. We reserve opinion on whether the Petitioner could satisfy the third prong to qualify for a national interest waiver. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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 the applicant did not otherwise meet their burden of proof).

ORDER: The appeal is dismissed.