U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34507829

Date: OCT. 31, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a clinical dentist and dentistry 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 had not established 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 or resubmits articles regarding oral health care initiatives and general health objectives in the United States, research and treatment for kidney failure, the need to strengthen STEM education in the United States, and an executive order related to lawful immigration pathways. 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 contends 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. The Petitioner argues that the Director "failed to mention not even once that the proposed endeavor would help bring about dental care to millions of Americans and that is in the national interest" and that a qualifying proposed endeavor need not have immediate or quantifiable economic impact.

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).

The Director provided an analysis that incorporated the relevant evidence provided, including details from the Petitioner's business plan. The Director did not discount the importance of oral health but noted that the Petitioner's proposed endeavor did not sufficiently detail an impact rising to a national level, particularly noting that the evidence was insufficient to demonstrate the proposed endeavor would address the cited shortages of dentistry professionals. The Petitioner's assertion on appeal that the endeavor would help bring about dental care for millions of Americans is not supported by the record. Even assuming the training platform the Petitioner plans to launch would result in its students changing dental care practices, the evidence does not show that millions of Americans would see improved dental health outcomes because of this particular endeavor. The Petitioner focuses the appeal on the alarming decline in oral health nationwide, the lack of specialized dental professionals, and the overall lack of preventive care for chronic conditions; while we do not doubt these statistics, the Petitioner's endeavor does not stand to improve these outcomes at a level commensurate to national importance through any of the means outlined in *Dhanasar*.

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.