U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33947457

Date: SEP. 27, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a researcher and teacher in the field of applied linguistics, 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 Petitioner's Form I-140, Immigrant Petition for Alien Workers, concluding that the Petitioner established her underlying eligibility for EB-2 classification as an advanced degree professional, but that she did not establish she merited a national interest waiver. 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.

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. 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 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 Ninth, Eleventh, and D.C. Circuit Courts (and Third

- 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.

III. NATIONAL INTEREST WAIVER

The Director determined that the Petitioner is an advanced degree professional and therefore qualifies for the underlying EB-2 visa classification. Thus, the remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver.

The Petitioner is a researcher in the field of applied linguistics who proposes to conduct research on teaching and curriculum development for English as a Second Language (ESL) courses. The Petitioner intends to focus primarily on researching language development opportunities for English learners in California and developing a multimodal curriculum for the ESL population for nationwide use. The Director concluded that the Petitioner's proposed endeavor had substantial merit as required to establish eligibility for a national interest waiver under the *Dhanasar* analytical framework. However, the Director denied the waiver, concluding that the Petitioner had not established that she met the three *Dhanasar* prongs, namely that her proposed endeavor was nationally important, that she was well positioned to advance the proposed endeavor, and that on balance, waiving the job offer requirement would benefit the United States. *Id.*

On appeal, the Petitioner asserts that the Director erred in its conclusion, and that she meets all three of the *Dhanasar* prongs and merits a national interest waiver. The Petitioner further claims the Director failed to include a discretionary analysis in addition to its substantive analysis on the Petitioner's eligibility for the national interest waiver. The agency policy the Petitioner references in her appeal, however, relates to benefit requests where an officer has determined a petitioner has met all applicable threshold eligibility requirements. Here the Director concluded that the Petitioner had not met the three *Dhanasar* prongs which are threshold requirements to establish eligibility for a national interest waiver. As a result, neither the law nor policy required the Director to perform a separate discretionary analysis as the Petitioner proposes.

A. Substantial Merit and National Importance

The first prong of the *Dhanasar* analytical framework, regarding substantial merit and national importance, focuses on the specific endeavor that the individual 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. *Id.* In determining whether the proposed endeavor has national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we consider the proposed endeavor's "potential prospective impact," and "look for broader implications." As noted in *Dhanasar*, "[a]n undertaking may have

in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

national importance for example, because it has national or even global implications within a particular field." *Id.* Further, "[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.

The record supports the Director's determination that the Petitioner's proposed endeavor has substantial merit. The Petitioner specifically asserts on appeal that the Director erred in determining that the Petitioner's proposed endeavor was not nationally important solely because she had not established it had significant potential to employ U.S. workers or had other substantial positive economic effects, particularly in an economically depressed area. We agree that these are not the only factors that may establish the national importance of a proposed endeavor as discussed in *Dhanasar*. *See id.* at 889-90 (discussing various considerations for assessing national importance of a proposed endeavor). However, although the Director did not specifically discuss all of the *Dhanasar* prong one considerations in assessing the national importance of the Petitioner's endeavor, for the reasons explained below, the record on appeal supports the Director's overall determination that the Petitioner has not established the national importance of her endeavor and therefore has not established eligibility for a national interest waiver under the *Dhanasar* analytical framework.

The Petitioner provided, in part, personal statements in support of her Form I-140 wherein she stated that her proposed endeavor is to build on her previous experience by seeking an assistant professor position in the United States allowing her to conduct research on teaching and curriculum development for ESL courses. She explained that she intends to focus on the needs of ESL learners in California which contributes to the national goal of cultivating a linguistically competent and culturally diverse workforce which is crucial for U.S. competitiveness and promotion of an inclusive society. She further explained that she intends to develop a multimodal ESL curriculum that will benefit ESL learners by promoting inclusivity and accessibility while also serving as tool for cultural integration. She claimed this curriculum will empower ESL students to thrive in the United States and create a more integrated, culturally rich, and economically vibrant society. She stated her proposed endeavor will benefit educators and language learners and that the results of her proposed endeavor will be circulated through peer-reviewed publications.

The Petitioner also submitted two letters of recommendation that generally speak to her character and professional experience as well as the value of her previous research to the applied linguistics field and language learning overall.

Additionally, the Petitioner submitted proof of receipt of a [redacted] Award to address the intersection of language, gender, and equity in Pakistan; copies of her publications; and articles on the global importance of the English language and the responsibility the United States has in teaching English language students.

We acknowledge the above evidence which primarily describes the Petitioner's experience in the field of applied linguistics or the overall impact applied linguistics and ESL learning have in the United States. In assessing national importance, our focus, however, is on the specific endeavor that the Petitioner proposes to undertake and its prospective impact, rather than her credentials and experience or the importance of the industry or profession in which the individual will work. *Id.* at 889.

Here, the Petitioner has not offered sufficient information and evidence to demonstrate the research she intends to conduct offers original innovations to advance, or otherwise has national or global implications in, the field of applied linguistics commensurate with national importance. The Petitioner's general assertions in her written statements regarding the contributions her proposed endeavor may make to cultivating a linguistically competent and culturally diverse workforce lack sufficient probative detail and are not corroborated in the record to establish the asserted contributions would have broader implications in the field of applied linguistics or would have other broader prospective impact. We note, for instance, although the letters of recommendation generally assert the value of her research to the applied linguistics field and language learning, the letters and articles submitted by the Petitioner do not address the Petitioner's specific plans to research language development opportunities for English learners in California or develop a multimodal curriculum for the ESL population for nationwide use, nor do they discuss with sufficient specificity the impact or broader implications of those plans or how such impact would result from her specific endeavor. Furthermore, while the Petitioner has previously received a [redacted] Award in Pakistan and has publications to her name, she has not shown that they relate to the research in which she proposes to engage in the United States and has not explained how they otherwise establish that her current endeavor is nationally important. The Petitioner further does not specifically address whether her proposed endeavor has significant potential to employ U.S. workers, nor does she quantify other substantial positive economic effects stemming from her proposed endeavor that may implicate national importance. Accordingly, we find the Petitioner has not established that her proposed endeavor is nationally important.

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, requiring that she demonstrate her proposed endeavor is nationally important. She therefore has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

As noted above, the Director also concluded that the Petitioner did not establish that she was well positioned to advance the endeavor, 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, as are required under prongs two and three of the *Dhanasar* analytical framework. While the Petitioner also contests these conclusions on appeal, since our determination that the Petitioner did not establish that her proposed endeavor is nationally important is dispositive of his appeal, we decline to reach and hereby reserve the appellate arguments on these issues. *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 alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.