U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29337686

Date: DEC. 05, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a general and operations manager, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, 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 the Petitioner did not establish eligibility for a national interest waiver under the framework outlined in Matter of Dhanasar, 26 I&N Dec. 884 (AAO 2016). 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.

The Director summarized the evidence and analyzed why it did not establish the Petitioner's eligibility for a national interest waiver. In so doing, the Director addressed the occupational demand and shortage of professionals in her field, the claimed "ripple effects" of her endeavor, and the importance of her profession, among other topics. On appeal, the Petitioner submits a brief, reasserting her eligibility. In support, she relies upon the evidence and arguments previously provided. In fact, the Petitioner's brief on appeal reads quite similarly to the letter she submitted with her petition's initial filing.

We adopt and affirm the Director's decision regarding the Petitioner's eligibility under the first Dhanasar prong. 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).

On appeal, the Petitioner states the Director applied a stricter standard of proof and did not sufficiently review all evidence. Specifically, she asserts the Director did not sufficiently consider her business plan, recommendation letters, industry reports and articles, and résumé. However, in the decision, the Director discussed the Petitioner's qualifications and experience, as well as specifically referenced and analyzed the business plan, recommendation letters, and industry reports and articles. Although the Petitioner states the Director did not consider the Petitioner's vast contributions in the field, she does not identify what these contributions are or how they affected the field. The record does not contain evidence suggesting the Petitioner's services are better, different, or cost less than those already available in the United States. Furthermore, the Director explained that the Petitioner's career accomplishments, success on projects, and the results she achieved for her employers and clients are not indicative of contributions in the field but rather to those who hire her for her services. The Petitioner does not explain what specific content the Director failed to consider or how the record contains evidence that overcomes the Director's analysis and findings. Therefore, we do not find support for the Petitioner's assertion that the Director applied a stricter standard of proof and did not properly review all evidence.

The Petitioner provided statistics about the human resources consulting field, among other related fields, comparing her endeavor's potential impact to that of industry giants such as Deloitte. However, the Director determined that the evidence did not establish how the Petitioner's endeavor operates on a scale rising to the level of national importance. Deloitte's statistics and other similar evidence are not comparable to the Petitioner's endeavor in either size or scope and therefore, they are not probative of the broader implications of the proposed endeavor. While the evidence demonstrates the importance of the industry and the professions within it, the Director already explained that this is not sufficient to establish the national importance of the specific proposed endeavor.

The Director considered the endeavor's projected revenue and job creation figures and the potential "ripple effects" of her endeavor, but nevertheless determined that her assertions were insufficient to establish the endeavor's national importance. The Petitioner has not provided a sufficient foundation for these projections, such as the number and size of clients she will need to achieve them. As such, they appear to be little more than conjecture. The Petitioner intends to locate her business in HUBZones; however, this does not substantiate the Petitioner's economic growth projections.[1] Moreover, she has not demonstrated she is a HUBZone program participant or that she will hire and serve only those individuals and businesses located within HubZones.

As stated, we adopt and affirm the Director's decision regarding the Petitioner's eligibility under the first Dhanasar prong.[2]

ORDER: The appeal is dismissed.

[1] HUBZone is a federal program involving "historically underutilized business zones."

[2] Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the Dhanasar framework. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (stating 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).