



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 25730822

Date: APR. 5, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a sales representative, seeks classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding that although the Petitioner qualified as an advanced degree professional, he 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. 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 summarily dismiss the appeal.

After establishing 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 pursuant to section 203(b)(2)(B)(i) of the Act, a petitioner must then demonstrate they merit a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that USCIS may, as matter of discretion,¹ grant a national interest waiver if the petitioner shows:

- 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.

¹ *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: “An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”

The Director concluded that the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. On appeal, the Petitioner does not acknowledge or address the grounds for denial of the petition or contend that the petition was denied based on any error on the part of the Director. Rather, the Petitioner submits a brief that was copied virtually verbatim from its October 3, 2022 letter submitted in response to a request for evidence (RFE), with the addition of the following statement: “RFE asked me to provide evidence that I am eligible for a National Interest Waiver. Accordingly, I want to resume the evidence in that appeal.” The Petitioner has not contested any aspect of the Director’s decision and has not identified an erroneous conclusion of law or statement of fact on the part of the Director as a basis for the appeal. Therefore, the appeal will be summarily dismissed.

We note that the Director’s decision adequately addressed the evidence submitted with respect to whether the Petitioner demonstrated that he merited a discretionary waiver of the job offer requirement, and explained why such evidence was insufficient to meet the Petitioner’s burden. Further, the decision reflects that the Director took into consideration the Petitioner’s response to the RFE, which is now re-submitted on appeal in lieu of a brief addressing the denial decision. The Petitioner was therefore given a sufficient explanation of the grounds for denial as required by 8 C.F.R. § 103.3(a)(1)(i), and a fair opportunity to contest the decision. We agree with the Director’s determination that the Petitioner did not establish eligibility for the benefit sought.

As the Petitioner does not submit an appeal that identifies specifically any erroneous conclusion of law or statement of fact relating to the grounds for denying the petition, we are summarily dismissing the appeal.

ORDER: The appeal is summarily dismissed under 8 C.F.R. § 103.3(a)(1)(v).