U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29227403

Date: DEC. 20, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a systems analyst in the information technology (IT) field, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional or an individual of exceptional ability, 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 first prong of 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.

On appeal, the Petitioner states verbatim that the Director's decision "was highly generic, and vague, which avoid the right of contest, as well as the decision did not cite lack of evidence or even the real reason why the application was denied." While we acknowledge this contention, the Petitioner did not provide any specific examples of where or how this occurred in the Director's decision. We reviewed the decision and do not find support for the Petitioner's assertion. The Director discussed pieces of evidence individually and quoted material in the record in several instances. Additionally, the Director identified multiple deficiencies in the evidence and explained specifically why the evidence did not establish the Petitioner's eligibility under the Dhanasar framework. Therefore, we adopt and affirm the Director's 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 acknowledge the Petitioner's assertion that her specific services "deeply differ from the ones generally provided by ordinary Systems Analysts," however, this assertion has not been explained or substantiated. The Petitioner has not shown that her services, for example, are better, cost less, or are

freely available to the public, such that we could conclude that her services "deeply differ" from those already available. Furthermore, the record does not contain evidence demonstrating how her deeply different services operate within the context of the employers and clients she worked for in the past or how they will operate in her proposed endeavor. Likewise, her claim to have made "critical job breakthroughs of enormous significance" is not substantiated. We reviewed the recommendation letters in the record, most of which reference how the Petitioner impacted her employer and clients. Other authors state that she has solved problems related to fraud in the e-commerce sector, her work impacted the "autotech" sector by enabling systems that reduced the number of scams, and the systems upon which the Petitioner worked have won awards; however, the authors do not offer sufficient detail concerning the Petitioner's specific work in these areas or substantiate how the claimed impact is attributed to her specific work.

The Petitioner improperly relies upon the collective impact of all IT professionals as sufficient to establish the impact of her proposed endeavor, stating that her proposed endeavor benefits society because it advances technology. However, in Dhanasar, we determined the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. Dhanasar, 26 I&N Dec. at 893. Here, we conclude that the Petitioner's proposed endeavor activities of customized, performance enhancing services do not rise to the level of national importance because she has not established how her specific contributions would impact the IT field more broadly. Similarly, working for national entities, such as federal government agencies, does not necessarily establish the national importance of the Petitioner's specific systems analyst work within such entities. Although the Petitioner asserted that her work results will be widely disseminated and distributed to the entire field, she has not offered details about how this will occur.

The Petitioner concluded that her proposed endeavor impacts a matter that a government entity has described as having national importance or is the subject of national initiatives. We agree that the IT field, e-commerce security, and advancing Science Technology Engineering and Mathematics (STEM) fields are matters of national importance. However, the Petitioner has not submitted sufficient evidence of the impact of her proposed endeavor on national initiatives. For instance, the Petitioner has not claimed to have developed any new systems analyst measures, as opposed to implementing or installing measures already known and in existence, nor does the evidence demonstrate the Petitioner's proposed endeavor is federally funded. Accordingly, we cannot agree with the Petitioner's conclusion that her endeavor impacts a matter that a government entity has described as having national importance or is the subject of national initiatives.

As the Petitioner has not presented any new evidence or arguments on appeal to address these and numerous other deficiencies the Director identified, she has not overcome them. The Petitioner must establish eligibility under each Dhanasar prong. Therefore, a failure to establish eligibility under any single prong necessarily negates eligibility for a national interest waiver overall. While we acknowledge the Petitioner's argument that the Director erred in not further analyzing the Petitioner's eligibility under the second and third Dhanasar prongs, she has not explained how providing such analysis would have changed the outcome of the Director's decision.

ORDER: The appeal is dismissed.