U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27419272

Date: JULY 19, 2023

Appeal of Texas Service Center Decision

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

The Petitioner is a lawyer in Kazakhstan who 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 determined that despite qualifying for the underlying EB-2 visa classification as an individual holding an advanced degree, the Petitioner did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. Specifically, applying the three-prong analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), the Director concluded that the Petitioner: (1) did not establish that her endeavor has national importance,[1] (2) did not demonstrate that she is well-positioned to advance the endeavor, and (3) did not show that on balance, waiving the job offer requirement would benefit the United States. 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 because the Petitioner did not establish that her endeavor has national importance and thus, she did not meet the first prong of *Dhanasar* framework. Because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the two remaining *Dhanasar* prongs. *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).

[1] The Director determined that the Petitioner's endeavor was shown to have substantial merit.

In addressing the issue of national importance, the Director acknowledged the Petitioner's education and legal background[2] and her submission of documents pertaining to the legal field and related industries, which pertain to the Petitioner's endeavor to work as a lawyer. However, the Director noted that the focus is on the Petitioner's specific endeavor, whose prospective impact was not deemed to have implications that rise to the level of national importance. The Director further noted that the Petitioner did not provide evidence of projected U.S. economic impact or job creation resulting from her endeavor and thus determined that the endeavor would not offer substantial economic effects for the region or nation or otherwise have broad implications rising to the level of national importance.

On appeal, the Petitioner argues that the Director "mischaracterizes the national importance standard" and asserts that the Director must consider the endeavor's "potential impact on the nation as a whole." In light of our summary of the Director's decision, where the Director specifically made a finding regarding the Petitioner's endeavor and its lack of a substantial impact on the region or nation, including the lack of evidence related to the endeavor's projected U.S. economic impact, we find the Petitioner's criticism to be unpersuasive and contradictory of the Director's analysis. The Petitioner further contends that the Director failed to acknowledge her proficiency in Russian and further points to her proficiency in the English language as well. However, the Petitioner has not established that proficiency in these languages, individually or collectively, would result in her endeavor having broader implications for the region or nation, or that language skills were part of the proposed endeavor. And although the Petitioner claims that the "rise in tension between the United States and Russia" has resulted in an increased need for Russian-speaking professionals like the Petitioner, she has not established that her endeavor to be a Russian-speaking lawyer in the United States would have a substantial impact on the said tension between the two nations. In fact, of the Petitioner's two job offer letters, one of which is from the law firm that previously represented her in this matter, only one indicates that the Petitioner's job duties would require her to use her knowledge of Russian. And neither job offer indicates that the Petitioner's proposed positions as an "immigration legal assistant," as stated in one letter, or "immigration paralegal," as stated in the other letter, would have a global impact, as the Petitioner seems to suggest. In sum, the appeal makes no compelling arguments nor offers evidence to overcome the Director's analysis and conclusion regarding the national importance of the Petitioner's endeavor.

Accordingly, we adopt and affirm the Director's analysis and decision regarding the national importance of the Petitioner's endeavor. *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). As noted above, we reserve the Petitioner's appellate arguments regarding the two remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. at 25.

[2] Her education and background, as well as language skills, would be more relevant to a prong two analysis and whether the Petitioner is well-positioned to advance her endeavor. We also note that the Petitioner did not provide evidence that she was licensed to practice law in the United States at the time of filing, which might also impact a consideration of whether she was well-positioned to advance her endeavor.

ORDER: The appeal is dismissed.