U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 24783649

Date: FEB. 7, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, a financial manager, seeks employment-based second preference 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 petition, concluding that the Petitioner established that she qualifies as a member of the professions holding an advanced degree, but not that she qualifies for a national interest waiver. In February 2022, we dismissed the Petitioner's appeal from that decision. The matter is now before us on a motion to reconsider.

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). Upon review, we will dismiss the motion.

Section 203(b)(2)(B)(i) of the Act establishes a discretionary waiver of the job offer requirement "in the national interest." *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), provides a three-pronged framework for adjudicating national interest waiver petitions. A petitioner seeking a national interest waiver must describe the individual's proposed endeavor and establish that:

- 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. at 889. For more details, we incorporate by reference the "Law" section of our February 2022 decision, which describes the requirements for a national interest waiver.

The first *Dhanasar* prong, 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id*. at 889.

A motion to reconsider must state the reasons for reconsideration and establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

In our February 2022 dismissal decision, we agreed with the Director that the Petitioner had not established the national importance of her proposed endeavor. Our conclusion rested on certain key determinations:

- The importance of a given field or industry does not establish the importance of an individual petitioner's specific proposed endeavor, and the Petitioner relied on generalized information without showing how it reflected on her proposed endeavor;
- The Petitioner did not substantiate the assertion that her work would create benefits beyond her prospective employer, such as through job creation; and
- The Petitioner changed her proposed endeavor after the filing date, for instance referring to the distribution of medical products in response to the COVID-19 pandemic.

Because we concluded that the Petitioner had not established the national importance of her proposed endeavor, we reserved consideration of the second and third *Dhanasar* prongs.

On motion from our decision, the Petitioner asserts that previously submitted materials established the national importance of the Petitioner's proposed endeavor. The Petitioner stated that her "professional plan . . . explained in detail her future career plan and her potential influence to the U.S. companies and economy through her endeavor." In that plan, the Petitioner stated that her work would not be limited to a single employer because she would provide "financial and business administration consulting services to a wide array of business[es] simultaneously."

In our appellate decision, we acknowledged the Petitioner's stated plan to work as a consultant. This plan might increase the number of businesses that would benefit from the Petitioner's work, but the Petitioner did not provide enough details to show "substantial positive economic effects" on a level sufficient to show national importance. On motion, the Petitioner does not show that she had previously provided those details.

The Petitioner quotes from a previously submitted letter from an employer, indicating that the Petitioner "is involved in the development, manufacturing and/or distribution of COVID-19 response supplies." We directly addressed this letter in our dismissal decision, stating that the Petitioner's initial description of her proposed endeavor did not mention any involvement in the creation or distribution of medical supplies. The employer's letter includes no information about the economic impact of the Petitioner's work, either within the company or elsewhere. Rather, it appears to have been drafted for the purpose of helping the Petitioner obtain a COVID-19 vaccination. The letter cites "Updated COVID-19 Vaccine Allocation Guidelines" issued by the California Department of Public Health.

The Petitioner also asks that we review an "Intent Letter from . . . a company that specializes in Financial Consulting and Business Development Services, reinforcing the importance of the petitioner's expertise in the US Financial Industry as a whole." The letter includes the assertion that the Petitioner "will be a great asset not only to our group but the US industry as a whole." We addressed this letter in our appellate decision, stating that "the letter does not elaborate on how the Petitioner would be a 'great asset' or provide any details in order to establish substantial positive economic effects the endeavor would accomplish in order for it to rise to the level of national importance." On motion, the Petitioner asks that we "refer to" the letter, but the Petitioner does not address or overcome the deficiencies we previously identified in the letter.

The Petitioner has not explained how the letters discussed above show that our appellate decision was incorrect at the time we issued it.

The Petitioner states: "The USCIS did not explain in detail why he or she would not consider the Petitioner's specific contribution in finance management is of significant endeavor in the U.S. economy [sic]." The meaning of this passage is not entirely clear. The Petitioner does not provide details about her "specific contribution in finance management."

In the same paragraph as the above statement, the Petitioner asserts that "the financial well-being of individual companies is of great significance to the development of economy and consumerism in the country." We do not dispute that the *collective* performance of businesses has a strong effect on the health of the economy. But the Petitioner has not shown that she contributes substantially to the financial well-being of enough individual companies to have a larger effect on the economy.

A petitioner must submit evidence to show that a given individual's work "has significant potential to employ U.S. workers or has other substantial positive economic effects." *Matter of Dhanasar,* 26 I&N Dec. at 890. Even then, *Dhanasar* gives more weight to such effects "in an economically depressed area" and holds only that such effects "*may well* be understood to have national importance." *Id.* These conditional qualifiers show that eligibility for the national interest waiver is established case-by-case, with no bright-line rule that working in a particular occupation, or proposing to serve multiple clients as a consultant, inherently establishes eligibility.

The motion before us does not meet the requirements of a motion to reconsider. The Petitioner has identified no error of law or policy in our appellate decision, and has not established that our appellate decision was incorrect when we issued it. Therefore, we must dismiss the motion.

ORDER: The motion to reconsider is dismissed.