U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37750689

Date: APR. 12, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or an alien 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).

Field Operations Directorate (FOD) denied the petition, concluding the Petitioner did not demonstrate 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 pursuant to 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.

I. LAW

To qualify for the underlying EB-2 visa classification, petitioners must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*. Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[1] 8 C.F.R. § 204.5(k)(2).

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). Petitioners must initially submit documentation

[1] Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[2] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If petitioners do so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. Section 203(b)(2)(A) of the Act.

If petitioners establish eligibility for the underlying EB-2 classification, they must then demonstrate that 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 the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[3] grant a national interest waiver if petitioners demonstrate:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance the proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

Regarding the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner "intend[s] to perform as an Accountant to implement and disseminate blockchain-based parameterization systems in accounting services, specifically targeting tax planning, financial and administrative management to alleviate issues related to delinquency in financial transactions in the United States."[4] Moreover, the Petitioner "intends to impact existing U.S.-based companies and institutions by . . . implement[ing] an innovative framework to address every aspect of establishing and maintaining a financially robust company, focusing on startups ensuring compliance with complex accounting and tax regulations, improving financial integrity, and optimizing internal processes, contributing to the overall economic growth in the United States."

As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. FOD determined the Petitioner established the substantial merit aspect, but not the national importance part, of the proposed endeavor.

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the

[2] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).
[3] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).
[4] *See* "Professional Plan" submitted at initial filing.

foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. The Petitioner argues that "[b]lockchain technology has been recognized for its ability to enhance security, increase transparency, and improve efficiency in financial operations," and "blockchain[] [has the] potential to reshape the global financial industry." Although the Petitioner references a forbes.com article relating to how blockchain is transforming the financial services industry, the matter here is not the importance of blockchain technology. Rather, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of providing her particular services in "target[ing] startups." In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890.

Moreover, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of the work. *Id.* at 889. Here, the Petitioner did not demonstrate how her services or business would largely influence the field and rise to the level of national importance. 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. *Id.* at 893. Similarly, the record does not show through supporting documentation how her particular endeavor sufficiently extends beyond her prospective clients or limited businesses that may use her services, to impact the field or the U.S. economy more broadly at a level commensurate with national importance.

Further, the Petitioner asserts that her "initiative address critical inefficiencies in the current financial ecosystem, particularly in regulatory compliance, tax planning, and administrative management" and her "initiative targets startups, which are vital drivers of economic growth in the United States, and provides tailored financial solutions to support their scalability and sustainability." Again, the issue is not whether her initiative will impact the limited startups in which she desires to pursue but the broader impact in the field. *See Dhanasar*, 26 I&N Dec. at 893.

Finally, the Petitioner asserts that her "proposed work aligns with broader governmental initiatives, such as promoting economic equity, supporting minority-owned businesses, and fostering innovation in key industries," and "she will implement her framework across multiple regions, including economically distressed areas, ensuring that the benefits of her work are not limited to a specific locale." At initial filing and in response to a request for evidence, the Petitioner provided plans that contain general and broad claims, which do not support her assertions of promoting economic equity, supporting minority-owned businesses, and fostering innovation in key industries. Simply claiming that "she will have the opportunity to engage with and benefit economically distressed areas across different states and regions, contributing to their overall development and growth" is insufficient to meet her burden without specific, detailed, and credible evidence showing that the benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. The Petitioner, for instance, did not demonstrate any employment figures that would utilize a significant population of workers in the area or would substantially impact job creation and economic growth, either regionally or nationally, nor did the Petitioner specifically identity any economically distressed areas.

For all these reasons, the record does not establish that, beyond the limited benefits provided to her prospective clients, the Petitioner's proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

Because the documentation in the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of the Petitioner's eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.[5] In addition, we need not review the Petitioner's qualification for the underlying immigrant classification.[6]

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

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[5] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

[6] The Petitioner claimed eligibility for EB-2 immigrant classification as an alien of exceptional ability. However, FOD determined that the Petitioner qualified as a member of the professions holding an advanced degree. Specifically, FOD found the Petitioner possessed a foreign equivalent of a bachelor's degree with five years of progressive experience; and therefore, did not decide the Petitioner's eligibility as an alien of exceptional ability. Mere possession of an advance degree or its equivalent is not sufficient for establishing eligibility for this classification. *See generally* 6 *USCIS Policy Manual*, *supra*, F.5(A)(3). The petitioner must also demonstrate that the position certified in the underlying permanent labor certification application or set forth on the Schedule A application requires a professional holding an advanced degree or the equivalent. *Id.* Moreover, the petitioner must demonstrate that the position, and the industry as a whole, normally requires that the position be filled by a person holding an advanced degree. *Id.* Here, the record does not show that the Petitioner's position, and the industry as a whole, requires accountants to possess advanced degrees. As such, the Petitioner did not establish eligibility as a member of professions holding an advanced degree or its equivalent.