U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37479625

Date: APR. 17, 2025

Appeal of Texas Service Center 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, 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 record did not establish 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 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, a petitioner 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.

If a petitioner establishes 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,[1] grant a national interest waiver if the petitioner demonstrates that: (1) the proposed endeavor has both substantial merit and national importance; (2) the individual is well-positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer requirement would benefit the United States. *Id.*

[1] *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).

II. ANALYSIS

The Director found, and the record supports, the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional. The remaining issue on appeal is whether the Petitioner has established that a waiver of the requirements of a job offer, and thus a labor certification, would be in the national interest. For the reasons set forth below, we agree with the Director that the Petitioner did not demonstrate eligibility under the *Dhanasar* framework and will dismiss the appeal.

The Petitioner proposes to establish a consulting and advisory company in international entrepreneurship. She aims to assist small and medium-sized entrepreneurs in their binational business, particularly between Brazil and the United States. Her services will include advising on the establishment and/or transfer of Brazilian companies to the United States, providing legal advice for Americans carrying out business in Brazil, and providing online training for the "general regularization" of individual immigrants throughout the United States.

The Director concluded that the Petitioner's proposed endeavor has substantial merit but not national importance under *Dhanasar's* first prong.[2] On appeal, the Petitioner generally disputes the Director's determination and asserts that the evidence establishes her eligibility for a national interest waiver.

Upon de novo review, we agree with the Director's conclusion that the Petitioner has not demonstrated her proposed endeavor's national importance and, thus, has not shown that she satisfies *Dhanasar's* first prong. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.[3]

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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.

Here, the Petitioner has not demonstrated that the prospective impact of her proposed endeavor rises to the level of national importance. In particular, she has not persuasively shown how her company will have a broader impact in the industry or nation beyond the individual employees and clients she will serve. While she claims her endeavor will produce positive economic effects, particularly in an

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[2] The Director also concluded that the Petitioner did not meet *Dhanasar's* second or third prongs.

[3] On appeal, the Petitioner presented additional evidence with her brief. While many of the documents were previously submitted, she also included an additional support letter, ServSafe certification, and certificate of appreciation for her volunteer work. Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial").

economically depressed area, she has not offered sufficient evidence showing any substantial economic impact directly attributable to her future work. For example, according to her business plan, the Petitioner expects to employ four individuals with wages of $273,370 in the first year of operation, increasing to seven employees with wages of $504,590 by the fifth year of operation. She also expects to create 45 indirect jobs by the fifth year. The Petitioner contends her work will result in $4,265,624.80 in revenue and $408,351 in income taxes over the course of five years.

The Petitioner, however, has presented little supporting evidence corroborating these assertions and figures. Moreover, even if these projections were more than conjecture, we would still conclude the Petitioner did not adequately demonstrate how her proposed endeavor would generate such significant economic activity that it rises to the level of "substantial positive economic effects" as contemplated by *Dhanasar*. For instance, she has not detailed how the claimed creation of seven direct jobs and 45 indirect jobs by year five demonstrates a significant potential to employ U.S. workers or otherwise shows how her endeavor's potential economic impact would result in any demonstrable effect on the regional or national economy. The Petitioner also has not, for example, established that such employment figures would utilize a significant population of workers in the area or would substantially impact job creation and economic growth in [redacted] Virginia, where the company is located, let alone in the United States generally. Likewise, the Petitioner has not explained how her company's projected revenue demonstrates "substantial positive economic effects" in the region or nation. Beyond the limited benefits provided to her prospective clients and employees, the Petitioner has not shown that her proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

The Petitioner also claims that, by assisting the integration of Brazilian companies into the U.S. market and vice versa, she will contribute to increased bilateral trade, foreign investment, and economic growth. She also asserts that her work will facilitate technology transfer and cross-border innovation, particularly in industries like renewable energy, healthcare, and information technology. However, aside from these vague assertions, she has provided little detail discussing how her work will specifically accomplish such objectives and, importantly, how any impact produced would be direct and significant enough to rise to a nationally important level. General conclusory statements without a sufficiently direct evidentiary tie between the proposed endeavor and the claimed impacts are insufficient. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

While the Petitioner also claims her proposed endeavor aligns with various U.S. governmental initiatives and priorities such as SelectUSA and the National Export Initiative, she has not shown how her future work would meaningfully impact these areas. Simply stating that she plans to work in an important industry is not sufficient, in and of itself, to establish the national importance of the proposed endeavor. *See id.* at 889 (stating that the first prong's focus is on "the specific endeavor that the foreign national proposes to undertake"). The Petitioner must still demonstrate her proposed endeavor's potential prospective impact in that area of national importance, which she has not done.

We have also considered the Petitioner's claims that her online training program will produce a more knowledgeable and empowered base of entrepreneurs and immigrants, which will contribute to economic growth and social integration. However, in the same way that *Dhanasar* finds that a classroom teacher's proposed endeavor is not nationally important because it will not impact the field

more broadly, the Petitioner has not shown how her proposed endeavor will sufficiently extend beyond the individuals she teaches to affect the industry, region, or our nation at a level commensurate with national importance. *Id*. at 893.

We have also reviewed the expert opinion letter authored by [redacted] an associate teaching professor at [redacted] as well as other support letters in the record. However, these letters also do not establish the proposed endeavor's national importance. The majority of the letters comment on the Petitioner's personal attributes, skills, and accomplishments, which are considerations under *Dhanasar's* second prong. *Id.* at 890. The issue under the first prong is whether the Petitioner has demonstrated the national importance of her proposed work. In that regard, the letters generally do not discuss the Petitioner's endeavor or its specific impact thereof, including any potential broader implications of her work. And while the professor's letter does comment on the proposed endeavor and its claimed importance, her opinion is largely conclusory and does not specifically explain why the Petitioner's work, in particular, would produce nationally important impacts. For example, the professor states that the Petitioner can help individuals and companies who are expanding their businesses into foreign markets navigate the laws with ease, thereby contributing to the U.S. economy. She also states that the Petitioner will help small and medium-sized businesses improve operations and achieve better productivity and profitability levels and, therefore, generate revenue and create employment opportunities. However, these broad, conclusory statements rely on more generalizations about the results of typical business activity, rather than providing probative information about how the Petitioner's endeavor would specifically accomplish these results and how any impact would extend beyond the direct clients that the Petitioner will serve. The letters provide little probative evidence of the endeavor's national importance under *Dhanasar's* first prong.

The Petitioner has not established with specific, probative evidence that her proposed endeavor will have broader implications in her field, have a significant potential to employ U.S. workers, or have substantial economic or societal effects beyond her future clients and employees. Because the documentation in the record does not establish the proposed endeavor's national importance as required by *Dhanasar's* first prong, the Petitioner has not demonstrated eligibility for a national interest waiver. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (stating that petitioners bear the burden of establishing their eligibility and that under this standard we consider the quality, such as relevance and probative value, of the evidence, in addition to quantity). Further analysis of the Petitioner's eligibility under the second and third *Dhanasar* prongs, therefore, would serve no meaningful purpose. *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, she has not established that she is eligible for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.