U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37480396

Date: APR. 23, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a CEO and entrepreneur in the field of telecommunications, 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 that the Petitioner qualified for classification as a member of the professions holding an advanced degree and that her endeavor had substantial merit. However, the Director also concluded that the Petitioner had not established the national importance of her endeavor, that she was well-positioned to advance her endeavor, or that on balance waiving the job offer requirement would benefit the United States. 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:

- 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.

II. ANALYSIS

The Petitioner, a CEO and entrepreneur in the field of telecommunications, intends on opening a telecommunications company. According to her business plan, the Petitioner will be the sole owner of the company which will focus "on conducting comprehensive market analysis within the telecommunications sector, developing customized services, and establishing strategic partnerships." Further, the Petitioner states that her "mission is to deploy advanced telecommunication infrastructure in rural and underserved areas, ensuring high-speed internet access, which is essential for education, healthcare, and economic opportunities."

Following initial review, the Director issued a Request for Evidence (RFE), allowing the Petitioner an opportunity to submit additional evidence to attempt to establish eligibility for EB-2 classification and a national interest waiver.

After reviewing the Petitioner's response, the Director found that the Petitioner had demonstrated eligibility for EB-2 classification as an advanced degree professional and the substantial merit of her endeavor.[2] However, the Director determined that the Petitioner had not demonstrated that her proposed endeavor was of national importance, that she was well-positioned to advance her endeavor, or that on balance it would be beneficial to the United States to waive the requirements of a job offer. Specifically, the Director found that the Petitioner had not established that her proposed endeavor "would have any implications beyond her company and clients, to impact the field, industry, or the U.S. economy more broadly at a level commensurate with national importance."

On appeal, the Petitioner contends that the Director erred in being "too narrow in [her] analysis of national importance," in "overly emphasizing geographic scope," and in "undervaluing [the

[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).

[2] The Petitioner initially submitted a "diploma of Specialist in Telecommunications Services and Networks" from the [redacted] a "degree of Telecommunications Engineer" or "título de Ingeniero en Telecomunicaciones" from the [redacted] and evidence of work experience. In the RFE, the Director requested that the Petitioner provide her full and complete transcript. In response, the Petitioner provided an education evaluation of her Telecommunication Engineer degree and her transcript for that degree. The evaluation states the length of the program was "4.5 years." According to AACRAO EDGE, a resource for U.S. equivalencies in foreign education, a "Título de Ingeniero," or "Title of Engineer" degree is awarded after five years of post-secondary study. Thus, it is unclear on the record before us if the Petitioner's degree is the equivalent of a bachelor's degree in the United States. Because we resolve this appeal on other grounds, we reserve our decision on this issue. The Petitioner should resolve this issue in any future benefit requests before USCIS where an advanced degree is required.

Petitioner's] contributions to national telecommunication and digital needs, particularly in underserved rural areas."

In determining national importance under *Dhanasar*, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have a 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. We look to the Petitioner's specific proposed endeavor's potential prospective impact in determining national importance.

The Petitioner argues that *Dhanasar* "clearly does not require national importance to be measured geographically; rather, it focuses on broader implications, including contributions to fields like telecommunications and technology." We agree. "[C]ertain locally- or regionally-focused endeavors may be of national importance despite being difficult to quantify with respect to geographic scope." *Id.* at 887.

According to the Petitioner's business plan, her company will "aim to reshape the landscape of telecommunications by delivering solutions that are both impactful and sustainable." Her company will operate in the "U.S. Commonwealth states of Kentucky, Massachusetts, Pennsylvania, and Virginia."[3] The Director found that while the Petitioner "makes claims that [the Petitioner] will focus on underserviced and rural communities, there is no evidence to support interest in her services, evidence that her work will lead to the impacts claimed, or have [the] potential to operate in such a wide area (across multiple states) with her company." The Director, in her decision, also could not "conclude [that] any area where [the Petitioner] will pursue the specific proposed endeavor is economically depressed."

The articles the Petitioner submitted provide context about broadband, the benefits and costs associated with its expansion, and the gap between rural and urban areas. Yet, the articles do not discuss the Petitioner's proposed endeavor or any impact her endeavor will have on the field in the states she mentions. For example, the report titled "A Case for Rural Broadband" from the U.S. Department of Agriculture discusses the "stark infrastructure gap between rural and urban areas" but does not mention the states that the Petitioner plans to operate in or her endeavor. We agree with the Director that the Petitioner has not demonstrated that her company will operate in areas that are economically depressed to demonstrate financial impacts or that her specific endeavor has the potential to have the impacts she claims in order to rise to the level of national importance.

The Petitioner submitted support letters and an expert opinion letter in attempt to demonstrate her endeavor's national importance.[4] The letters discuss the Petitioner's skills, experience, and education

[3] We note that a map provided in her business plan wrongly lists "Masachhusets" as being where Missouri is located while also erroneously naming Kentucky as "Cennsvania."
[4] While may not discuss every document submitted, we have reviewed and considered each one.

but do not provide discussion of how her proposed endeavor is of national importance and how she will realize her endeavor's goals. For example, a letter from E-J-P-F- states that the Petitioner "has a solid academic background and vast experience in the telecommunications sector." Further, the letter states that the Petitioner's "ability to resolve conflicts and negotiate mutually beneficial agreements is of one her greatest strengths." Similarly, a letter from L-B- relates that the Petitioner's "vast experience uniquely prepares her to assume a crucial role as a consultant in the critical infrastructure [sic] of the United States" and that "her expertise in the management and enhancement of telecommunications networks and services will be instrumental in addressing priority national challenges." While the authors praise the Petitioner's abilities and experience, the letters provide little information about how the Petitioner's endeavor will have broader implications so as to reach the level of national importance. While we acknowledge the Petitioner's past achievements and her successful career, a Petitioner's experience and expertise are factors to consider under *Dhanasar's* second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar*, 26 I&N Dec. at 890.

The Petitioner submitted an expert opinion letter from [redacted] of [redacted] We acknowledge that the letter includes an asserted analysis of the national importance of the Petitioner's proposed endeavor. [redacted] states that the Petitioner is "a seasoned Telecommunications Engineer with extensive experience in both mobile and fixed communications" with "a proven track record in mobile network planning, project management, and pre-sales engineering." Further, [redacted] states the Petitioner's endeavor "stands to significantly impact the broader telecommunications field and has implications that rise to the level of national importance." In addition, [redacted] states that the Petitioner's endeavor "has a significant potential to employ U.S. workers," "will broadly enhance societal welfare," and impacts a matter that "is the subject of national initiatives."

Further, [redacted] contends that the Petitioner's endeavor "represents a pivotal advancement for the U.S., integrating cutting-edge telecommunications solutions into the very fabric of rural and underserved communities." [redacted] also contends that the Petitioner's endeavor "stands to significantly impact the broader telecommunications field and has implications that rise to the level of national importance." He states that the Petitioner's endeavor "will deploy advanced telecommunications infrastructure, ensuring" that the 19 million Americans lacking access to high-speed broadband "gain reliable internet access."

However, despite these statements, we agree with the Director that the expert opinion letter is of little probative value as the letter does not meaningfully address the details of the Petitioner's proposed endeavor and how it will have national importance. [redacted] does not explain how the Petitioner's endeavor will have substantial rather than marginal effects on the U.S. economy. [redacted] asserts only generally that the Petitioner "is poised to make a substantial impact on the U.S. economy, elevating the project to national importance." [redacted] does not explain how the Petitioner will obtain the advanced telecommunications equipment, how that equipment will significantly diminish the number of Americans without access to broadband internet, or how the Petitioner's endeavor will achieve the results claimed. Further, the Petitioner's business plan does not discuss the acquisition of advanced telecommunications equipment but rather focuses on "consultancy and training." The evidence in the record does not support [redacted] claims to show that the Petitioner's endeavor will rise to the level of national importance.

As a matter of discretion, we may use opinion statements submitted by a petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's' eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.*

The Petitioner also claims that her proposed endeavor will create "numerous high-skilled jobs in engineering, project management, and technical support." She further claims that the positions created "will stimulate local economies and reduce unemployment rates." The Director determined based on the Petitioner's business plan that the Petitioner's company will have a total of five employees in year one and grow to thirteen employees by year three. Based on the Petitioner's employment projections, the Director found that the Petitioner had not demonstrated that her endeavor would lead to the employment of a significant population of workers. On appeal, the Petitioner contends that the "telecommunications sector is a significant source of employment in the United States" and that the "expansion of broadband networks alone could create 1.2 million jobs over the next five years." However, the Petitioner provides no argument as to how the Director erred in determining that employing thirteen employees by year three did not rise to the level of national importance. Nothing shows that the Petitioner's specific endeavor will employ large numbers of telecommunications workers directly. *See Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (declining to address a "passing reference" to an argument in a brief that did not provide legal support).

Next, the Petitioner contends on appeal that her endeavor is of national importance as it will improve telecommunications infrastructure in underserved areas, foster innovation and technological advancements, and lead to increased economic development, and educational and healthcare improvements. The Director found that the evidence "fails to establish that the specific endeavor will have such impacts." We agree with the Director that the Petitioner has not demonstrated how her endeavor will achieve the purported results. The Petitioner asserts that her endeavor will enhance connectivity, advance 5G deployment, create jobs, stimulate local economies, drive innovation, enhance quality of life, and contribute to national initiatives. Yet, the Petitioner does not demonstrate how her endeavor will specifically lead to such results. For example, the Petitioner argues that "[a]ccess to high-speed internet improves quality of life by enabling telehealth services, remote education, and access to government services." But, the Petitioner does not show how her particular endeavor will be likely to produce those results. We conclude that the prospective benefits of the Petitioner's endeavor are too attenuated to reach the level of national importance.

We conclude that the Petitioner has not demonstrated the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* analytical framework and therefore has not demonstrated eligibility for a national interest waiver. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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).

III. CONCLUSION

The Petitioner has not demonstrated that her proposed endeavor has national importance. 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.