U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37957934

Date: APR. 28, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a human resources management consultant, 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).

Service Center Operations denied the petition, concluding 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. 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.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States 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. 8 C.F.R. § 204.5(k)(2).

Once a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *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 a 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.

II. ANALYSIS

Service Center Operations determined that the Petitioner qualified for the underlying EB-2 classification as a member of the professions holding an advanced degree. Therefore, the remaining issue is whether the Petitioner established eligibility for a national interest waiver under the *Dhanasar* framework.

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. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with Service Center Operation's conclusion that the proposed endeavor has substantial merit as it falls within the range of areas of substantial merit, namely business and entrepreneurialism. *Id.* However, while the Petitioner has established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner stated her proposed endeavor in the United States was to "act as a human resources management consultant to analyze, diagnose, and implement changes in the organizational structure and apply tools that facilitate the development and sustainability of companies." The Petitioner indicated that she planned to promote the proper recruitment of personnel and design strategies for the well-being of workers, reduce labor conflicts, and assist companies in achieving objectives through the implementation of processes to optimize productivity, particularly in the oil and gas sector. The Petitioner emphasized that her proposed endeavor would benefit the United States economy, most notably the oil and gas industry she asserted was recovering from the COVID-19 pandemic and the war between Russia and Ukraine. The Petitioner further stated that her consulting services would contribute to job creation, skill development, productivity and efficiency, cost savings, and the global competitiveness of U.S. companies in the oil and gas industry.

Service Center Operations later issued a request for evidence concluding that the submitted evidence did not demonstrate the potential prospective national impact of the Petitioner's proposed endeavor and how it would have implications beyond her proposed company and clients. As such, Service Center Operations requested that the Petitioner submit additional evidence including a more detailed description of her proposed endeavor and why it had national importance, how it had national implications within her field, the significant potential to employ U.S. workers or have substantial

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

positive economic effects, broadly enhance societal welfare, and/or impact a matter that a government entity described as having national importance.

In response, the Petitioner submitted a business plan she asserted laid out a "strategic blueprint" for her specialized consulting services "focused on empowering organizations with cutting-edge human resources solutions that drive sustainable growth, optimize productivity, and enhance employee well-being" in the oil and gas industry and other "critical sectors to the U.S. economy." She further described the national importance of her proposed endeavor as follows:

> Her endeavor is of national importance, as it aims to boost the competitiveness and sustainability of critical sectors by integrating progressive strategies and robust support systems, including developing strategic HR programs, in-depth organizational assessments, efficient resources allocation, and accurate performance reporting. These innovations are designed not only to improve operational efficiency and reduce costs but also to enhance organizational outcomes, foster stability, and build long-term resilience in industries that are vital to the national interest, addressing crucial challenges industry needs. By providing tailored solutions that meet the unique needs and challenges of these critical sectors, which are vital for the US economy, such as the oil and gas industry, [the Petitioner's] services are expected to generate high-quality jobs, stimulate economic growth, Supporting Workforce Stability, Efficiency, contribute to the resilience of critical industries, Promoting Sustainable Development in the Energy Sector and Developing the Future Workforce. This aligns with national priorities, focusing on enhancing productivity, sustainability, and advanced workforce development.

The Petitioner also provided a letter from an asserted expert Dr. V-L- emphasizing the national importance of her proposed endeavor in advancing the U.S. human resources management industry in the oil and gas industry, pointing to her "unique qualifications and experience" in "implementing integrated HR systems, optimizing recruitment processes, and developing comprehensive employee and training programs."

Service Center Operations concluded the Petitioner did not demonstrate the national importance of her proposed endeavor stating she did not establish how the services provided through her consulting company would operate on a large scale. Service Center Operations determined that the Petitioner did not establish that her proposed endeavor would have a broader impact on her field outside of her company and unidentified clients.

On appeal, the Petitioner asserts that the prospective potential national impact of her proposed endeavor does not hinge solely on its economic impact or geographic breadth, but its broader implications within the field. The Petitioner reiterates similar contentions related to national importance previously submitted on the record, asserting that her consulting services would fuel entrepreneurship and innovation in the oil and gas industry. She further states that her services would have broad implications through impacting labor shortages in rural Florida communities, building a stronger U.S. workforce to compete in the global marketplace, promoting diversity and inclusion to unlock the full potential of the U.S. workforce, and enhancing employee well-being through employee engagement and retention services. Likewise, the Petitioner asserts that her introduction of

"innovative H.R. strategies" would revolutionize American businesses and be applied to every industry contributing to the overall economic health of the nation.

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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.

The Petitioner submitted an ambiguous array of potential prospective impacts leaving question as to the likelihood that her proposed human resources consulting company would have national importance. The Petitioner did not provide sufficient detail regarding the nature of her proposed human resources services to substantiate that these would likely lead to potential prospective impacts on a national level. For instance, the Petitioner asserted that she would implement various services, but did not detail or document the strategic human resources programs she would implement, the in-depth organizational assessments she would provide, how she would efficiently allocate resources for clients, or provide more accurate performance reporting. Similarly, the Petitioner did not explain in sufficient detail how her vaguely asserted services would reduce costs for clients or "enhance organizational outcomes, foster stability, and build long-term resilience" for companies at a national level.

The Petitioner refers to "tailored solutions that meet the unique needs and challenges of these critical sectors," yet it does not discuss with specificity what tailored solutions she would utilize or what unique human resources challenges critical industries in the U.S. economy face, including the emphasized oil and gas industry. The Petitioner describes her business plans as a "strategic blueprint" and refers to innovations she will introduce through her human resources consulting; however, she provided little detail as to how her services would differ from human resources services provided throughout the U.S. economy and the oil and gas industry specifically. In fact, the Petitioner claims of national importance appear largely based on the asserted importance of the oil and gas industry, rather than her specifically proposed endeavor. However, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work, but the specific endeavor she proposes to undertake. *Id.* at 889.

The Petitioner also submits additional wide-ranging and unsupported assertions of national importance on appeal, asserting that her consulting services would address labor shortages in rural Florida communities, build a stronger U.S. workforce to compete in the global marketplace, promote diversity and inclusion to unlock the full potential of the U.S. workforce, and enhance employee well-being through employee engagement and retention services. However, again, there is little discussion as to what services she would implement to address labor shortages in Florida or how her proposed consulting services would impact the U.S. workforce on a national level, including their overall well-being. In sum, the Petitioner submitted a vague array of claimed human resources services and potential prospective national impacts, leaving substantial uncertainty as to whether her proposed endeavor would have national importance. The Petitioner must resolve ambiguities in the record with

independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner also points to an asserted expert opinion from a Dr. V-L- emphasizing the national importance of her proposed endeavor and pointing to her "unique qualifications and experience" in "implementing integrated HR systems, optimizing recruitment processes, and developing comprehensive employee and training programs." Yet again, the expert opinion does not describe the specifics of the solutions the Petitioner did, or would provide, such as the human resources systems she would integrate, recruitment processes she would put in place, or the training programs she would develop in the oil and gas industry, nor does the opinion sufficiently explain how these solutions would specifically address challenges faced in this industry. The expert further stated that the Petitioner would "focus on integrating digital tools and AI into HRM processes" allowing companies to "enhance productivity, reduce operational costs, and ensure more accurate and efficient HR practices." Notably, the Petitioner makes no mention of the use of artificial intelligence (AI) elsewhere on the record, and Dr. V-L- submitted little explanation or support for how her use of AI would lead to potential prospective national level impacts on the human resources and oil and gas industries.

In sum, the expert assertions as to the potential prospective impact of the proposed endeavor appear largely based on the Petitioner prior skills and experience, rather than specific plans she proposes to undertake. While we recognize that the Petitioner gained a wide range of experience while employed as a human resource professional, a petitioner's expertise and record of success are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated the national importance of a specific proposed endeavor. However, as discussed, the Petitioner and the provided expert letter presented an unfocused variety of potential proposed endeavors leaving uncertainty as to her assertions of national level impact. Although the Petitioner's various proposed endeavors bear some relation to certain general goals of the former Biden Administration, such as those related to U.S. workforce development, the Petitioner has not sufficiently established that her numerous initiatives would have a potential prospective national level impact on these large national problems. Generalized conclusory statements that do not identify a specific impact to the field have little probative value. *See e.g., 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

Lastly, the record does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 890. As discussed, the Petitioner contends that her human resources consulting services would align with "critical sectors, such as oil and gas, key drivers of job creation and innovation in the U.S. economy" as well "revolutionize the dynamics of American businesses." Again, the Petitioner provided little objective support for these bold assertions, such as by providing credible business plans and projections indicating how many individuals her consulting firm would hire, the revenue it would generate, or the clients it would work within "critical sectors of the economy," such as oil and gas. The Petitioner's business plan reflected an investment of just under $14,000 in the new consulting business, leaving uncertainty regarding its potential prospective national economic impact on an oil and gas industry Dr. V-L- indicated accounted for 12.3 million jobs and $1.6 trillion in federal and state tax revenues from 2012 to 2025. As noted, the Petitioner also vaguely indicated that Florida has a large rural population and that her proposed endeavor could

address labor shortages in this population. However, the Petitioner provided little detail and documentation to sufficiently demonstrate that her consulting services would likely have a national impact on economically depressed areas in Florida as claimed. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, she has not provided sufficient explanation of the prospective national impact directly attributable to her proposed work, or established how her endeavor would impact an economically depressed area. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s third prong. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); *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).

ORDER: The appeal is dismissed.