U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37339205

Date: APR. 29, 2025

Appeal of Texas Service Center Decision

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

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

The Director of the Texas Service Center denied the petition, concluding that 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:

- The proposed endeavor has both substantial merit and national importance;

[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).

- 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 claims she intends to come to the United States and work as a CEO for a marketing company that she will establish. She states her proposed endeavor is to operate the new startup consultancy company in the United States, offering "a highly tailored solution for organizations planning to export to Brazil within three different but complementary services: Strategy Blueprint, Creative Services, and Operation Services." Her company will operate through a digital platform to facilitate "the sales and work process and the coverage of the export and import market." She claims that the endeavor "aims to help U.S. companies thrive in the Brazilian market by providing market research, project management, communication, and marketing strategies to enter the market, sell more, and assist in all stages of the companies' internationalization." The Petitioner argues her proposed endeavor will benefit her clients "who will in turn then grow their own businesses and generate more profits thus needing to hire more employees, pay higher taxes, and buy more local goods and services," thus causing economic growth by the creation of new jobs. The Petitioner contends her professional background in the communication field, including in advertising and publicity, gives her the necessary experience to succeed in this endeavor.

To qualify for a national interest waiver, the Petitioner must first show that she qualifies for the EB-2 classification under section 203(b)(2)(A) of the Act, either as an advanced degree professional or an individual of exceptional ability. The Director determined the Petitioner met the requirements for EB-2 classification. However, the Director denied the waiver request, having further determined that although the Petitioner established the substantial merit of her proposed endeavor, she did not establish its national importance, that she is well-positioned to advance that proposed endeavor, or that it would be beneficial to the United States to waive the requirements of a job offer. We agree that the Petitioner has not established that her proposed endeavor has national importance and will dismiss the appeal accordingly.

The Director found that the Petitioner did not establish that her proposed endeavor met the national importance element of the first prong of the *Dhanasar* framework. Specifically, the Director determined the Petitioner did not establish her proposed endeavor would have broader implications to the field of communications or have significant potential to employ U.S. workers or otherwise have substantial positive economic effects such that she established its national importance. The first prong of *Dhanasar*, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

The evidence submitted by the Petitioner does not establish her proposed endeavor would operate on such a large scale as to have a national impact on the communications industry. When determining the national importance of a proposed endeavor, the relevant question is not the importance of the

industry, sector, or profession in which the individual will work; rather, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.* In *Dhanasar*, we further 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.* Although the Petitioner has provided evidence of her professional experience, including her statement and letters of reference, the inquiry in the first prong of the *Dhanasar* framework focuses on "the specific endeavor that the foreign national proposes to undertake." *See id.* The Petitioner's skills, knowledge, and prior work in her field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *See id.* at 890. The issue here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar*'s first prong. The Petitioner does not offer evidence to show how her proposed endeavor would impact the communications industry or otherwise would operate on such a scale as to rise to a level of national importance. Although the Petitioner's specific venture has the potential to provide valuable services to her clients, she did not establish her specific proposed endeavor will have substantial national implications or have a broader impact beyond the individuals directly served by her company. The Petitioner also has not established that her proposed endeavor stands to promote job creation in communications as claimed. While we acknowledge the importance of the field of communications, as well as the related fields of publicity and advertising, the Petitioner did not establish her proposed endeavor would have broader implications to the overall fields to establish its national importance. *See id.* at 893.

Further, the record does not establish the Petitioner's proposed endeavor will have substantial positive impacts on the U.S. economy. Although any basic economic activity has the potential to positively impact a local economy, the Petitioner has not demonstrated how the economic activity directly resulting from her proposed endeavor would rise to the level of national importance. An endeavor may have national importance if it "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area . . .." *Id.* at 890. The Petitioner asserts that her business – a marketing and communications consulting company – will generate jobs for U.S. workers and positively contribute to the U.S. economy, including through generation of taxed revenue. In her business plan, the Petitioner indicated her company would generate a cumulative 25 jobs and $1.7 million dollars in revenue by its fifth year of business. However, the business plan does not provide sufficient explanation for the basis of these projections. Further, even if sufficient basis were provided for the proposed endeavor's revenue and job creation projections, these figures do not establish that the Petitioner's company would operate on a scale rising to the level of national importance. The Petitioner has not explained how her proposed employment metrics and revenue would have impact beyond her business's area of intended operations. Upon de novo review, the Petitioner did not establish her proposed endeavor would have substantial positive economic effects.

Accordingly, we find that the record does not demonstrate national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, and the Petitioner 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

As the Petitioner has not established she meets the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.