U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33359851

Date: AUG. 16, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a financial manager, 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 the Petitioner was eligible for the requested national interest waiver. 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 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. 8 C.F.R. § 204.5(k)(2).

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. 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 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 Director determined that the Petitioner qualifies for EB-2 immigrant classification as an advanced degree professional, but did not establish her eligibility for a national interest waiver under the *Dhanasar* framework. For the reasons set forth below, we agree that the Petitioner has not established eligibility for the requested national interest waiver and dismiss the appeal.

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 the Director's determination that the Petitioner's endeavor has substantial merit as it falls within the range of areas contemplated in *Dhanasar*, namely business. *See id.* However, we also agree that the Petitioner has not established that the proposed endeavor has national importance.

The Petitioner stated that she intended to work in the United States as a financial manager to "provide [her] specialized services to impact the field through innovation," and "to focus [her] contributions on working in [r]elationship [m]anagement, [i]nvestment, [p]eople [m]anagement, and [f]inancial [d]epartments areas to benefit [f]inancial [i]nstitutions and clients." According to the Petitioner's initial professional plan, she planned to provide several specialized financial services using data analytics, business intelligence, and financial planning and forecasting, which would ultimately "bring significant benefits to both individuals and businesses alike, lead[ing] to a better financial future for all parties." Additionally, the Petitioner stated she would "make significant contributions to the field," and "potentially generate economic growth and contribute toward the advance[ment] and optimization of the U.S. market." In support of her endeavor, the Petitioner provided a personal statement outlining her professional plans, an expert opinion letter, and letters of recommendation from the petitioner's former colleagues attesting to her expertise and success in the financial management field.

In response to the Director's request for evidence (RFE) requesting additional evidence on the national importance of the Petitioner's proposed endeavor, she submitted a new professional plan clarifying that, as a financial manager, she intended to "boost the operational efficiency and growth of the U.S. banking sector, focusing on the strategic application of data analytics." She added that she intended

[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 is discretionary in nature).

to work with U.S. companies to provide services in financial management, franchise management, customer relationship management, and people management. In order to support her customers, she planned to rely on her expertise in investments; financial reports and financial data; financial planning and retirement planning; investment management and wealth management; excel, financial modeling, and forecasting; tax strategies; risk management and cost management; and negotiation and communication. Ultimately, she asserted that her work would broadly impact her industry and U.S. economy by enhancing the efficiency in the financial sector, and would also enhance societal welfare by enabling businesses to thrive and create new job opportunities. Additionally, the Petitioner supplemented the record with new reference letters detailing her experience in the field and her impact to her prior employers and customers.

The Director concluded that, while the Petitioner had established the substantial merit of her endeavor, she did not establish its national importance because its prospective impact would not extend beyond her future employer(s) or her customers to lead to broader implications to the industry or field. Moreover, the Director concluded that the Petitioner did not establish that her endeavor had significant potential to employ U.S. workers or otherwise offer substantial positive economic effects.

On appeal, the Petitioner generally asserts that the Director erred in their conclusion that the endeavor does not rise to the level of national importance contemplated in *Dhanasar*. In doing so, the Petitioner primarily relies on the same arguments she previously put forth in response to the Director's RFE, adding that her "innovative strategies in financial management, franchise management, and customer relationship management directly address critical issues faced not only by individual companies but also by the banking sector and the broader economy," and her work will enhance not only the financial health of institutions but also impact the entire banking sector both national and globally. The Petitioner also claims on appeal that the Director erred in not considering the projected growth in the franchise sector which establishes her endeavor would result in job creation and positive economic benefits.

Upon de novo review, we agree that the record does not establish, by a preponderance of the evidence, that the Petitioner's proposed endeavor has national importance. The Petitioner's claims on appeal primarily rely on the importance of the financial industry, rather than the prospective impact attributable to her specific endeavor. But 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.

Although the Petitioner's statements in the record reflect her intention to provide valuable services to her future employer(s) and customers, the record does not support her assertions that her services will result in broader implications to the field, beyond the potential benefits to her immediate employer(s) or customers. While she asserts, for example, that her plans to focus on enhancing technological integration within the banking industry to reduce payment processing outages will impact the entire

banking industry, she has not explained how these services provided to her employer(s) or customers would otherwise impact the field more broadly. Likewise, her claims that her focus on standardizing financial practices and enhancing access to credit for franchises will contribute to global best practices in franchise management are not supported by the record. The Petitioner has not explained, for example, how any best practices adopted by her employer(s) or customers would otherwise lead to broader implications to the field. Generalized conclusory statements that do not identify a specific impact in 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). In *Dhanasar,* we determined that 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. Here too, we agree with the Director that the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond her potential employer(s) or customers to impact the financial field more broadly at a level commensurate with national importance.

Similarly, while the Petitioner asserts on appeal that her work in customer relationship management (CRM) systems will result in "profound implications for societal welfare in the United States," she has not explained how *her specific* endeavor will impact societal welfare. Rather, she primarily describes the benefits and goals of CRM systems generally. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The record also 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." *See Dhanasar* at 890. While the Petitioner asserts that, through her focus on franchise management, she will emerge as a key player in fostering economic growth and employment opportunities, she supports this assertion by relying on the cumulative economic benefits of the franchising industry, rather than her individual endeavor. Although any basic economic activity has the potential to positively impact a local economy and increase tax revenue, the Petitioner has not provided projected employment numbers and revenue growth contributable to her endeavor to establish how her endeavor will impact the area of intended operations, nor has she provided evidence that her endeavor will impact an economically depressed area.

And we agree with the Director's conclusion that the Petitioner's assertions regarding a claimed shortage in her field do not establish the national importance of her specific endeavor. The national interest waiver is not intended to address labor shortages. A shortage of qualified professionals alone does not render the work of an individual financial manager nationally important under the *Dhanasar* precedent decision. Several of the Petitioner's claims of national importance could reasonably apply to any financial manager in the field who has a positive impact on their employer's operations, but Congress did not provide a blanket exemption for financial managers with respect to the job offer and labor certification requirement

Additionally, the testimonial evidence in the record, including the expert opinion letter from Dr. S-S- and the letters of recommendation, provide little probative value in establishing the national importance of the Petitioner's endeavor. For instance, while Dr. S-S- concludes that the Petitioner's work is in the national importance, because "financial managers play a critical role in the United States' economy," they do not elaborate on how the Petitioner's *individual* work will result in broader implications to her field or otherwise result in substantial economic benefits. Moreover, the letters

primarily discuss the Petitioner's expertise and professional background, while providing little analysis of the Petitioner's specific proposed endeavor. While we recognize that the Petitioner has had a successful career, 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 her proposed endeavor. USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a noncitizen's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, *see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). Here, much of the content of the expert opinion letter and recommendation letters lack relevance with respect to the national importance of the Petitioner's proposed endeavor.

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

Because the identified reason for dismissal is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's remaining arguments concerning eligibility under the *Dhanasar* framework, as well as a determination as to whether the Petitioner has met the requirements of EB-2 classification. *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).

ORDER: The appeal is dismissed.