U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33569276

Date: AUGUST 23, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an accountant, 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 Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree, but 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 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 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 matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- 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

In response to the Director's request for evidence (RFE), the Petitioner submitted a business plan for a consulting company focusing on financial market analysis, particularly in International Financial Reporting Standards (IFRS) compliance and strategic financial planning. The business plan states the Petitioner will serve as the company's chief executive officer (CEO) and the company will operate in Florida.

The Petitioner submitted evidence that she holds the equivalent of a U.S. bachelor's degree and has over five years of progressive experience in accounting. The Director determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether she qualifies for and merits a waiver of the job offer requirement in the national interest.

A. Substantial Merit and National Importance

1. Substantial Merit

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Dhanasar*, 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.* The Director indicated the Petitioner did not establish the substantial merit of her proposed endeavor because she did not sufficiently describe her proposed endeavor. On appeal, the Petitioner asserts she provided a detailed description of her proposed endeavor in response to the Director's request for evidence (RFE).

The Petitioner's business plan submitted in response to the RFE describes her proposed endeavor in detail. The Petitioner also submitted articles on the importance of accounting and the public interest role of accountants. De novo review of the relevant evidence shows the substantial merit of the Petitioner's proposed endeavor and the Director's contrary determination is withdrawn.

2. National Importance

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director concluded the Petitioner did not establish the national importance of her proposed endeavor.

On appeal, the Petitioner claims the Director used a template and overlooked the evidence she presented that demonstrates the national importance of her proposed endeavor. We agree the Director's decision contains language that does not specifically address all the relevant evidence submitted. De novo review of the entire record does not, however, show any error in the Director's ultimate determination.

The Petitioner asserts her proposed endeavor has national importance because it aligns with matters of national importance as defined by government entities. Specifically, the Petitioner cites the Internal Revenue Service's (IRS's) emphasis on the importance of accurate compliance for small businesses. The Petitioner also asserts that by providing her expertise in IFRS, she will equip American companies to operate effectively in global markets and align with U.S. Department of Commerce reports that businesses compliant with international standards are more likely to engage in international trade. The Petitioner also claims her proposed endeavor has the potential for global or national implications within the economy by improving financial management, promoting tax compliance, and supporting the growth of small businesses and startups.

The Petitioner does not submit evidence of the IRS's and Department of Commerce concerns she claims she will address, and she does not explain how her company's work would extend beyond assistance to individual businesses to impact her field more broadly. *See id.* at 889 (explaining "we look for broader implications"). The Petitioner also does not specify how her company's work in financial management, promoting tax compliance, and supporting the growth of small businesses and startups would contribute to her field beyond assisting individual clients. The Petitioner's business plan states her company will offer services in IFRS compliance consulting, financial strategy development, compliance training programs, financial reporting optimization, regulatory advisement, strategic financial planning, corporate governance enhancement, sustainability reporting, and continuous advisory support. However, the record does not indicate that the Petitioner developed any of these services or that her company would otherwise make significant contributions impacting her field more broadly. *See id.* (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

The Petitioner also claims her proposed endeavor will create "a myriad of employment opportunities" and its "potential to generate tax revenues and stimulate growth in various sectors will have a pronounced positive economic impact." However, the Petitioner's business plan does not state the company's projected tax payments or that it would employ any personnel apart from the Petitioner. The plan states the compliance consulting industry revenue was estimated at $110.5 million in 2023. The plan does not indicate that the Petitioner's company would earn revenue, make tax payments or otherwise provide substantial positive economic effects at a level commensurate with national importance given the size of the industry's revenue in the United States. *See id.* at 890 (discussing significant potential to employ United States workers and other substantial positive economic effects as indicative of national importance).

The Petitioner further asserts her proposed endeavor will enhance societal welfare by supporting and empowering businesses leading to reinforced transparency, integrity, and confidence in financial systems and institutions. The Petitioner also claims the improved financial management she would provide to businesses would "positively impact the livelihoods of business owners and their employees, translating into a stronger workforce committed to their jobs, which will undoubtedly

generate economic growth." The record does not demonstrate, however, how the Petitioner's company's work would extend beyond assisting individual client companies to impact businesses in a manner commensurate with national importance.

The Petitioner submitted articles on the types of auditors, the certified public accountant (CPA) shortage, the public interest role of accountants, IFRS, the importance of accounting, developing a strong compliance strategy, the financial services industry, the importance of auditors, the finance strategist, 2022 small business profile, the majority of Americans need improved financial planning but only a third seek professional help, and the U.S. Small Business Administration's implementation of rules to address persistent capital access gaps. These articles address the importance of accounting and related issues, but they do not address the Petitioner's proposed endeavor. Our assessment of national importance does not focus on the importance of issues affecting a field or our nation in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the documents mention the Petitioner or address the potential prospective impact of her proposed endeavor. *See id.* (explaining we consider the proposed endeavor's potential prospective impact when assessing national importance).

The Petitioner also submitted letters from employers and colleagues who praise her accomplishments, knowledge and skills, but do not address her proposed endeavor. For example, E-V-M-[2], O-G- and F-R- all praise the Petitioner's "commitment to the search for solutions and new proposals for the exponential growth of the company" and her "talent to interact with our clients and other international member firms of [redacted] C-N-C-V- also commends the Petitioner's accomplishments at [redacted] and describes her as a "highly skilled professional in the field of General Fund Administrators, Mutual and Investment Funds and Brokerage Firms." S-C-I-I- expresses her confidence that the Petitioner "will be a benefit for the United States nation" given her vast experience. C-T-L- expresses her assurance that the Petitioner will benefit the United States because "she is a financial and audit specialist." While these letters praise the Petitioner's achievements and express confidence in her ability to contribute to the accounting industry in the United States, they do not specifically address the potential prospective impact of her proposed endeavor. *See id.* (explaining we consider the proposed endeavor's potential prospective impact when assessing national importance).

The Petitioner also submitted a letter from S-S-, Professor of Accounting at [redacted] expressing his opinion that the Petitioner qualifies for a national interest waiver. S-S- summarizes the Petitioner's experience and qualifications and states her proposed endeavor has national importance "due to its potential to raise audit standards, enhance regulatory compliance, and set new benchmarks for excellence in audit management." S-S- also claims the Petitioner's proposed endeavor has significant potential to employ U.S. workers and have other substantial positive economic effects because her work could potentially lead to her clients' increased hiring to support expanded audit operations and in response to heightened efficiency. S-S- further asserts the Petitioner's proposed endeavor will broadly enhance societal welfare and cultural enrichment by reinforcing transparency and integrity within financial systems, disseminating advanced audit methodologies and best practices, fostering cultural diversity and sensitivity within financial institutions, promoting ethical business practices, and improving financial literacy among client businesses. S-S- also claims the Petitioner's proposed endeavor impacts matters the U.S. government has highlighted as being of national

[2] We use initials to protect the privacy of the referenced individuals.

importance such as initiatives to bolster financial security and regulatory compliance within the financial sector. Although S-S- describes how the Petitioner's expertise could address these matters, he does not explain how the Petitioner's work would extend beyond her company's individual clients to impact her field more broadly on a level commensurate with national importance. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it relates to U.S. strategic interests).

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, the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond her company's clients to impact her field more broadly in a manner commensurate with national importance. Consequently, the Petitioner has not established the national importance of her proposed endeavor.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of her specific proposed endeavor and she does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of her eligibility under the second and third prongs of 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 established the national importance of her proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, she has not demonstrated that she is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.