U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34886012

Date: DEC. 04, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a financial administrator, 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 record did not establish that the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree.[1] The Director further determined that the Petitioner did not establish that a waiver of the job offer requirement 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.

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).

[1] The Director also concluded that the evidence submitted did not establish that the Petitioner qualifies for EB-2 classification as an individual of exceptional ability. However, the Petitioner did not claim this basis of eligibility before the Director, or acknowledge on appeal the Director's adverse determination on this issue. As such, we will not review the Director's determinations on this matter.

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,[2] 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. ELIGIBILITY FOR EB-2 CLASSIFICATION

The Director concluded that the Petitioner did not establish she qualifies for the EB-2 classification as a member of the professions holding an advanced degree under section 203(b)(2)(A) of the Act. The Director determined that the Petitioner submitted an official academic record and a credentials evaluation demonstrating that she earned the foreign equivalent of a U.S. baccalaureate degree in business administration in 2009 from a Brazilian university. The Director also found that although the Petitioner provided evidence in the form of letters from her employers, she had not sufficiently documented that she has at least five years of progressive post-baccalaureate experience in the specialty. *See* 8 C.F.R. § 204.5(k)(3)(i)(B). Specifically, letters attesting to her experience in the field from [redacted], where the Petitioner claimed to have worked from 2011 to 2015, contain unresolved inconsistencies that undermine the probative value of those letters.

The Petitioner submitted Part B of Form ETA 750, Application for Alien Employment Certification, dated November 2022, attesting to her education and work experience.[3] Where asked to provide details regarding her prior employment, she indicated her employment included work as a financial administrator with [redacted] from August 2020 until "present," and as a credit analyst for [redacted] from 2015 until 2018. The Petitioner's initial evidence included a recommendation letter from the financial director of [redacted] who confirmed her employment as a credit and collections analyst with the company from July 2015 to July 2018. In addition, the Petitioner provided two letters from [redacted] including a letter dated November 2022 from its finance and administration director who verified the Petitioner's employment as a financial administrator since August 2020. The Director did not mention or discuss this letter in her decision concluding that the Petitioner documented less than five years of post-baccalaureate employment experience. Upon review, we find that the letters from [redacted] and [redacted] as well as other letters in the record, establish that the Petitioner acquired at least five

[2] *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).

[3] The Director noted that although the Petitioner indicated on the Form ETA 750 that she earned a master's degree in financial management in 2012 from a Brazilian university, the record does not contain any documentation showing she earned the foreign equivalent of a U.S. master's degree.

years of progressive experience in her specialty from the date she earned her degree in 2009 up to the date she filed her petition in November 2022. As the record sufficiently documents the Petitioner's five plus years of post-baccalaureate experience in the area of her specialty as attested by employment letters, we find that she qualifies for EB-2 classification as a member of the professions holding an advanced degree. 8 C.F.R. § 204.5(k)(2).

III. NATIONAL INTEREST WAIVER

As we have concluded that the Petitioner qualifies as a member of the professions holding an advanced degree, the remaining issue before us is whether the record establishes that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest. According to the Petitioner's resume, since 2020 she has worked as a financial administrator of [redacted] The Petitioner indicates she intends to continue her work as a financial administrator "to help [redacted] and in future other businesses in making educated business decisions with an accurate analysis of their finances and credit." Although the Director found substantial merit in the proposed endeavor, the Director determined that the Petitioner did not establish that her proposed endeavor has national importance, that she is well-positioned to advance it, and that, on balance, waiving the job offer requirement would be beneficial to the United States. For the reasons provided below, we conclude that the Petitioner has not sufficiently established the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

A. The Proposed Endeavor

The Petitioner indicated on the Form I-140, Immigrant Petition for Alien Workers, that she intends to work as a "financial administrator" in the United States, and will "[p]lan, direct, or coordinate accounting, investing, banking, insurance, securities, and other financial activities of a branch, office, or department of an establishment."

At the time of filing, the Petitioner submitted a personal statement in which she indicated her endeavor is to continue her work as a financial administrator for [redacted] "and in future other businesses," utilizing her "experience in managing financial accounts to help companies across the United States to meet their financial goals and improve their financial capacity with ripple effects on the whole economy." She indicated her "tasks will include making operational improvements to bolster productivity, reevaluating the investment portfolio, and investing in the finance functions capabilities." The Petitioner's initial evidence also included employment verification letters, a resume, and copies of industry articles and government reports in support of her eligibility.

The Director issued a request for evidence (RFE), finding that the record as initially constituted was insufficient to demonstrate that the proposed endeavor had national importance. Specifically, the Director determined that the Petitioner had not demonstrated that her proposed endeavor would impact the regional or national population at a level consistent with national importance. As a result, the Director requested a detailed description of the endeavor in order to evaluate eligibility for a national interest waiver under the *Dhanasar* framework.

Within her response to the Director's request for evidence (RFE), the Petitioner submitted an updated personal statement which reasserted that the services she will provide as a financial administrator are of

national importance. The Petitioner also submitted an updated resume, two expert opinion letters, additional employment verification letters, testimonial letters, evidence of past employment projects, and copies of additional industry articles and government reports in support of her eligibility.

In the Petitioner's updated statement, she explained that her current position "requires precision, proactive problem-solving, and a deep dedication to safeguarding the financial well-being of our company." She further asserted that "my responsibilities as a Financial Administrator have the potential to concretely and positively impact the U.S. finance industry" and have global impact as follows:

> By enhancing financial transparency, promoting data-driven decision making, reducing fraud, strengthening cyber security, and fostering investor confidence, we contribute to a more robust, secure, and competitive financial landscape. Our initiatives can serve as a beacon for best practices in the industry, benefiting financial institutions, consumers, and the broader economy.
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> . . . .
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> By setting a gold standard for fiscal management, the United States can positively influence the global economy, trade relations, and international financial stability.

B. Substantial Merit and National Importance

As stated, to satisfy the first prong under the *Dhanasar* analytical framework, the Petitioner must demonstrate that her proposed endeavor has both substantial merit and national importance. This prong of the *Dhanasar* framework focuses on the specific endeavor 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889.

In denying the petition, the Director concluded that although the proposed endeavor had substantial merit, the record contained insufficient evidence to demonstrate that the Petitioner's work would impact the regional or national population at a level consistent with national importance. The Director determined that the Petitioner did not demonstrate that the benefits of her proposed U.S. employment would reach beyond her employer or prospective clients to affect her field or the United States more broadly. On appeal, the Petitioner claims that the Director's decision was erroneous, and asserts that the Director erred by applying a "stricter standard of proof" when evaluating the national importance element of *Dhanasar*'s first prong and by not analyzing the totality of the evidence, including the Petitioner's personal statements, expert letters, testimonial letters, and articles.

With respect to the standard of proof in this matter, a petitioner must establish that their petition meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I& N Dec. at 375-76. In other words, a petitioner must show that what they claim is "more likely than not" or "probably" true. To determine whether a petitioner has met their burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec.

77, 79-80 (Comm'r 1989). Here, the Director thoroughly analyzed the Petitioner's documentation and weighed the evidence to evaluate whether she had demonstrated, by a preponderance of the evidence, that she meets the first prong of the *Dhanasar* framework.

As stated, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the noncitizen proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. Generally, we look to evidence documenting the "potential prospective impact" of a petitioner's work. The Petitioner submitted information about the importance of a company's financial risk management strategy; the role of financial markets for economic growth; the roles and value of accounting in business; federal STEM education initiatives; strategies for improving STEM education; the COVID pandemic's effect on the U.S. national debt; and a talent shortage for financial services professionals. While we note that this documentation supports the Director's determination that the proposed endeavor has substantial merit, it does not establish that the endeavor has national importance. We recognize the value of financial administration services; however, merely working in an important field is insufficient to establish the national importance of the proposed endeavor.

Similarly, the Petitioner's personal statements emphasize the value of financial administration services instead of focusing on the prospective impact of her specific endeavor. While the Petitioner's statements reflect her intention to continue to provide valuable financial administration services for [redacted] and, in future, financial administration consulting services to other businesses, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. Moreover, while she indicates that her proposed endeavor will stimulate the economy by creating jobs and revenue, the Petitioner did not point to any corroborating evidence that would directly link the specific endeavor to the overall economy's growth. Assertions must be supported with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner provided recommendation letters from current and former employers and colleagues who discuss her knowledge, financial activities, and skills as a credit analyst and financial administrator, and attest to the quality of her work. Although the letters praise her qualifications and professional accomplishments, the Petitioner's skills, expertise, and abilities 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 the Petitioner proposes to undertake has national importance under *Dhanasar's* first prong. A determination regarding the claimed national importance of a specific proposed endeavor cannot be inferred based on the Petitioner's past accomplishments, just as it cannot be inferred based on general claims about the importance of a given field or industry.

The Petitioner also submitted two advisory opinions on her behalf. The first, from an accounting professor at [redacted] states that the Petitioner's proposed work is of national importance due to the roles of a financial administrator, the economic value of "clear and precise" financial reporting practices, the societal impact of the finance industry, and U.S. Government legislation pertaining to the finance industry, such as "the Corporate Accountability Initiative, Payment Practices Improvement Initiative, and Data Integrity and Compliance Initiative."

USCIS will consider evidence demonstrating how a specific proposed endeavor impacts a matter that a government entity has described as having national importance or a matter that is the subject of national initiatives. Again, in determining national importance, the relevant question is not the importance of the industry in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar,* 26 I&N Dec. at 889. Therefore, pursuing employment in an area that is adjacent to or aligned with the subject of national initiatives is not sufficient, in and of itself, to establish the national importance of a specific endeavor. Here, the Petitioner has not sufficiently explained the potential prospective impact or broader potential implications of her specific endeavor on the referenced finance industry initiatives.

Additionally, we note the professor's assertion that according to the U.S. Bureau of Labor Statistics, the employment of financial managers is projected to grow 16 percent in the next decade, with "several specialties within financial management, particularly cash management and risk management . . . expected to be in high demand over the decade." Elsewhere, the professor asserts, with respect to finance professionals, that the Petitioner's "expertise is rare, and the United States is already experiencing a shortage in this field." We are not persuaded by the professor's claim that the Petitioner's proposed endeavor has national importance due to the shortage of professionals in her industry, as there is no indication that her proposed endeavor stands to impact or significantly reduce the claimed national shortage. Further, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

We also reviewed the advisory opinion letter from a professor of finance at [redacted] The professor discusses the Petitioner's skills and abilities as a financial administrator and speculates on how her services can potentially improve business practices and productivity of companies in multiple industries. In addition, the professor states that the Petitioner's proposed work is of national importance as it may help businesses seeking to benefit from federal initiatives, such as for small businesses or to mitigate the effect of COVID-19 on the finance industry like the Paycheck Protection Program and the Economic Injury Disaster Loan programs. The professor does not, however, offer any persuasive detail concerning the Petitioner's specific proposed endeavor, how her endeavor's impact would extend beyond her employment with [redacted] or other businesses she may serve as a consultant in the future, and the potential prospective impact or broader potential implications of her specific endeavor on the referenced national initiatives.

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) (holding that the immigration service may reject or afford less evidentiary weight to an expert opinion that conflicts with other information or "is in any way questionable."). However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.* Here, the letters from the professors and the Petitioner's employers and colleagues do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work as a financial administrator employee or consultant offers broader implications in the fields of financial administration services or accounting that rise to the level of national importance.

We noted in *Dhanasar* that "we look for broader implications" of the proposed endeavor and 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." *See Dhanasar*, 26 I&N Dec. at 890. Although the Petitioner recounts the value and importance of her financial administrator services and their general impact on business growth, *Dhanasar* requires us to focus on the "the specific endeavor that the foreign national proposes to undertake," not the importance of the field, industry, or profession in which the individual will work. *Id.* at 889. The Petitioner did not provide evidence to demonstrate how her financial administration services will have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation.

The Petitioner contends on appeal that she "has the potential to yield substantial positive economic effects in the United States through her adept management of financial resources, strategic decision-making, and meticulous oversight of fiscal operations." She asserts that her proposed endeavor "has far-reaching global implications" because "[i]n today's interconnected economy, the financial strategies and innovations she implements not only enhance the competitiveness of her company in the global marketplace but also influence international trade relations and investment flows." However, these statements are not supported by financial projections.

The record lacks evidence that the proposed endeavor's future staffing levels and business activity would provide substantial economic benefits in the United States, or that it otherwise has broader national implications within the field. The Petitioner has not offered evidence identifying that the area where she will operate is economically depressed; that she would employ a significant population of workers in that area; or that her endeavor would offer the region or its population a substantial economic benefit through employment levels or business activity. Without this evidence, we cannot evaluate the proposed endeavor's impact on job creation or its overall economic impact.

As such, the Petitioner has not supported a claim that her proposed endeavor is likely to, for example, introduce innovations that may have broader implications for small businesses in the financial administration services field. Although the proposed endeavor may benefit the Petitioner's current employer and prospective client companies that engage her consulting services, the record does not sufficiently show that such benefits, either individually or cumulatively, stand to sufficiently extend beyond those companies to impact the financial administration services or accounting field, the financial services industry, or the U.S. economy more broadly at a level commensurate with national importance. 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. The record does not provide adequate support for a determination that her specific proposed endeavor will have such a wide-reaching impact.

Finally, we note the Petitioner's submission of two of our non-precedent decisions on appeal, in which each petitioner sought classification as an individual of extraordinary ability and we sustained the appeals. First, these two petitioners sought employment-based first preference (EB-1) immigrant classification, which is different from the EB-2 immigrant classification sought by the Petitioner in the instant case. Second, neither decision was published as a precedent and, therefore, these decisions do not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case and may be distinguishable

based on the evidence in the record of proceedings, the issues considered, and applicable law and policy.

In light of the above conclusions, the Petitioner has not established that her proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding her eligibility under the remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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).

IV. CONCLUSION

As the Petitioner has not demonstrated that she meets the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not demonstrated that 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.