U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36106917

Date: FEB. 06, 2025

Appeal of Nebraska 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 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 Nebraska 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. 8 C.F.R. § 204.5(K)(2). 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. *Id*.

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;
- 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 prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of 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.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

The Petitioner intends to establish her own comprehensive financial consulting services company to provide tailored financial solutions to small and medium-sized enterprises, start-ups, and individuals. Through her company, she plans to offer financial management, accounting, and financial analysis services to assist her clients with the development of internal business procedures; financial reporting and analysis; financial accounting; budgeting, forecasting, and financial planning; overall financial analysis; and tax filing services. And she intends to offer educational webinars and courses on various financial concepts. Accordingly, she asserts that her services will empower her clients with informed decision-making strategies and contribute to economic growth and increased financial literacy in the United States.

In support of her endeavor, the Petitioner provided an autobiographical statement, a five-year business plan, an expert opinion letter, and multiple letters of recommendation. Additionally, she submitted industry reports and news articles discussing the financial manager profession, the expected growth of the industry, the shortage of financial managers and finance professionals in the United States, as well as government publications discussing various federal government initiatives aimed at increasing economic development. The record also contains articles discussing the economic importance of immigrants and the benefits of increased immigration to support the shortage of labor in the United States. Additionally, the Petitioner provided letters of intent from individuals interested in using her company's services.[2]

[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).

[2] While we do not discuss each piece of evidence contained in the record individually, we have reviewed and considered each one.

Upon review of the record, the Director concluded that, while the Petitioner established her endeavor is substantially meritorious, she did not demonstrate the proposed endeavor has national importance. Specifically, the Director determined that the Petitioner had not shown her company would offer benefits more broadly at a level commensurate with national importance, beyond the direct benefits provided to her prospective clients. And the Director determined that she did not demonstrate her proposed endeavor has a significant potential to employ U.S. workers or otherwise generate substantial positive economic effects contemplated in *Dhanasar*.

On appeal, the Petitioner asserts that the decision was based on an incorrect application of law and policy and that the Director did not properly consider the evidence in the record, which she purports establishes the national importance of her endeavor. Notably, however, beyond generally disagreeing with the Director's conclusions, the Petitioner does not discuss *what* evidence the Director did not properly consider. And, instead of addressing the Director's specific conclusions, she asserts broadly that they are erroneous, and reiterates the same claims previously made before the Director regarding the national importance of her proposed endeavor. As an appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision, this omission alone is grounds for dismissal. *See* 8 C.F.R. § 103.3(a)(1)(v). Nevertheless, for the reasons discussed below, we agree with the Director's conclusion that the proposed endeavor, while substantially meritorious, does not have national importance as contemplated in *Dhanasar*.

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

In their appellate brief, the Petitioner reiterates that her company will result in broader implications to the field because it will provide U.S. businesses with tailored financial consulting services, empower businesses to navigate complex financial landscapes, and will address key challenges in financial management, accounting, and financial analysis. And she reiterates her intentions to strengthen the financial health of companies by offering services in financial strategy development, cost optimization, risk assessment, and financial planning. The Petitioner asserts that by setting a high standard for financial consultancy services, she will not only support her customers, but also advance the broader financial consulting field by promoting innovation, stability, and growth in the field.

While we recognize that the Petitioner's services may be beneficial to her direct clients, and support the substantial merit of her endeavor, the Petitioner has not shown how her services would result in broader implications to her field, nor does she establish the Director erred in concluding that the benefits of her services would not extend beyond her direct customers. For example, the Petitioner does not identify what innovations her company will bring to the industry, nor does she explain how the services to her clients will advance the industry. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 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. *Dhanasar* at 893. Similarly, activities which only benefit the Petitioner's prospective clients, like the offerings outlined in her business plan, would not have broader implications in the field. *Id.*

And, while we acknowledge the Petitioner's assertion that her company will particularly focus on providing these services to small and medium-sized businesses, which she asserts form the backbone of the U.S. economy, when evaluating the national importance of a proposed endeavor, the industry or customer base a petitioner will serve alone is not sufficient to establish national importance, instead we focus on the broader implications of "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889.

Likewise, the record does not support the Petitioner's assertion that her endeavor is nationally important because it is "poised to make a significant contribution to societal welfare." While the Petitioner asserts that her educational webinars and outreach will improve financial literacy in the United States, and that her company's promotion of financial literacy, economic stability, and job creation will result in broad ripple effects to society, she again does not explain or support with evidence how her company will meaningfully impact these broad initiatives on a level commensurate with national importance. We agree that improvements to financial literacy benefit society, but again this relates to the importance of the financial management industry in general, rather than the Petitioner's specific endeavor. And while we acknowledge the Petitioner's claims on appeal that her endeavor aligns with key national priorities, including fostering economic growth, she does not identify ways in which her company will meaningfully impact these initiatives at a level commensurate with national importance. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Here, she has not met this burden.

Additionally, we also conclude that the record does not support the Petitioner's claims that her company will result in a significant potential to employ U.S. workers, or otherwise result in substantial positive economic effects contemplated in *Dhanasar*. The Petitioner claims that her company will result in substantial economic effects due to her intent to operate within economically distressed communities designated as opportunity zones by the Internal Revenue Service. She states that her company will catalyze economic development in these distressed areas through empowering local businesses by providing financial consulting services, reducing unemployment, and fostering community resources. Yet, she does not support these assertions in the record. The Petitioner also emphasizes the "ripple effects" of her endeavor on the U.S. economy, but she Petitioner has not shown that the "ripple effects" of her endeavor, which are oftentimes significantly attenuated and unconnected with a particular endeavor, establish that her particular endeavor will result in "substantial economic effects" as contemplated in *Dhanasar*. *Id.* at 890. 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.

In her business plan, the Petitioner indicated that by the fifth year of operations she anticipated her company would have an annual revenue of $1,738,500 and a total annual tax payment of $250,322.

She also projected that she would employ 18 total employees and have payroll expenses of $1,280,909 annually. Notably, however, while the Petitioner identified the various positions each employee will fill, the business plan does not provide sufficient explanation for the basis of these employment projections. And, beyond providing an anticipated cost of the services offered, the business plan also does not explain the basis for the financial projections. But even if the endeavor's revenue and job creation projections were sufficiently explained and supported, they do not establish that her company would operate on a scale rising to the level of national importance contemplated in *Dhanasar*, nor has the Petitioner explained how her proposed employment numbers and revenue would impact the company's area of intended operations at a level commensurate with national importance. Accordingly, the Petitioner has not established that her endeavor has significant potential to employ U.S. workers or otherwise result in substantial economic effects contemplated in *Dhanasar*.

Moreover, the testimonial evidence in the record does not establish the national importance of her endeavor. For example, the expert opinion letter primarily restates several of the claims made by the Petitioner highlighting the services her company intends to offer, without explaining how her company's operations would result in broader implications beyond the immediate benefits to her prospective clients. For example, the expert generally reiterates that the Petitioner's operations will contribute to economic growth company growth, but does not otherwise elaborate on how this growth would be "substantial" contemplated in *Dhanasar*. Accordingly, the letter does not establish how the Petitioner's specific endeavor would broadly impact the field or otherwise lead to substantial economic effects. 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).

Similarly, the letters of recommendation provide little probative value in establishing the national importance of the Petitioner's endeavor as they primarily focus on the Petitioner's past experience without addressing the prospective impact of her endeavor. And while some of the recommendation letters address interest in partnering with the Petitioner's company in the United States, the letters do not establish how those partnerships will lead to broader implications to the industry at a level commensurate with national importance. We recognize that the Petitioner has had a successful career, but 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." *Dhanasar* at 890. The issue here is whether the Petitioner has demonstrated the national importance of her proposed endeavor. We conclude she has not.

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 she 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 second and third prongs. *See INS v. Bagamasbad, 429 U.S. 24, 25 (1976)* (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.