U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36238717

Date: FEB. 10, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, a business administrator, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, as well as a national interest waiver of the job offer requirement attached to this classification. 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 Petitioner did not demonstrate that she merits a discretionary waiver of the job offer requirement 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. 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;

[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v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id. at 889.

II. ANALYSIS

A. Substantial Merit and National Importance

The first 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Id. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer. See generally 6 USCIS Policy Manual F.5(D)(1), https://www.uscis.gov/policy-manual.

The Director determined that while the Petitioner established that the proposed endeavor has substantial merit, she did not establish that the proposed endeavor is of national importance as set forth under the first prong of the Dhanasar analytical framework. We agree, for the reasons explained below.

The Petitioner, a manager of a nail salon, asserts that her proposed endeavor is to develop and manage an accounting and financial advisory services company that "will offer specialized services in accounting, fiscal management, payroll processing, corporate tax consultancy, and financial accounting," and "set high standards in the industry, potentially influencing best practices and innovation in the U.S." She contends that her endeavor will "significantly contribute to the economy of the US, in the form generation of employment (direct and indirect jobs for US employees), federal taxes, payment of wages and contribution towards the GDP." She further contends that "her endeavor impacts nationally important matters, and the national economy, explicitly by: [o]ffering economic operational support and financial management, as she is able to secure the success of small and medium-sized U.S. companies, [p]romoting growth and expansion and driving change with innovation, which thus promotes and drives national economic advantage, and [s]timulating the domestic job market, as enhanced business actions through her own business that leads to the generation of new jobs for American workers." The Petitioner's business plan includes financial forecast data indicating that her business will "generate a total revenue of $4,450,500 over five years, with gross profits around $3,341,000" as well as "generate direct employment for approximately 16 U.S. workers" and "indirect employment of 21 U.S. workers." The Petitioner also maintains that her business "would invest in the designated hub zones and economically distressed regions of [redacted] Illinois by opening its headquarters in this location."

On appeal, the Petitioner asserts that the Director erroneously misapplied the preponderance of the evidence standard and did not give due regard to her resume, business plan, evidence of her work in

her field, letters of recommendation, or "industry reports and articles demonstrating the national importance of the Appellant's proposed endeavor as well as the steep shortage in the U.S. of professionals with her profile in the field."

In the present case, the Petitioner relies primarily on the importance of the financial services industry to the U.S. economy. We first note here that the Petitioner's experience and abilities in her field relate to the second prong of the Dhanasar framework, which "shifts the focus from the proposed endeavor to the foreign national." Dhanasar at 890. In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." Id. at 889. In Dhanasar, 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. A financial advisory services company and a shortage of finance managers in the United States does not render the proposed endeavor nationally important under the Dhanasar framework. Moreover, the alleged shortage of occupations or occupational skills does not render a proposed endeavor nationally important under the Dhanasar framework and such shortages are directly addressed by the U.S. Department of Labor through the labor certification process.

The evidence in the record also does not establish by a preponderance of the evidence – that it is more likely than not – that the Petitioner's business will "significantly contribute to the economy of the US, in the form generation of employment (direct and indirect jobs for US employees), federal taxes, payment of wages and contribution towards the GDP" or "set high standards in the industry, potentially influencing best practices and innovation in the U.S." Instead, the Petitioner supports her claims with references to third party documentation, asserting that "as demonstrated by the submitted industry reports and articles, [her] proposed endeavor is unquestionably of national importance, given the significant impact of the role that financial management professionals play in every type of business. These articles demonstrate the national importance of [her] proposed endeavor, explicitly due to its economic implications - which very much affect nationwide activities and business productivity." Broad statements and projections regarding the role that financial management professionals play in the U.S. economy do not demonstrate the prospective impact directly attributable to her proposed endeavor or establish how her endeavor will impact the industry beyond her company's customers and the operations of the business.

The Petitioner also has not provided corroborating evidence, aside from claims in her statements and her business plan, that her company's activities stand to provide substantial economic benefits to [redacted] or the United States, and her statements are not sufficient to demonstrate her endeavor has the potential to provide economic, societal, and security benefits to the United States. While she contends that her company will have a total revenue of $4,450,500 by the fifth year, these projections are not supported by relevant or probative evidence, details showing their basis, or an explanation of how they will be realized, nor do they demonstrate a significant potential to substantially impact the regional or national economy. Generalized conclusory statements that do not identify a specific impact to the field have little probative value.[2] Without sufficient information or evidence regarding any

[2] *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).

projected U.S. economic impact or job creation directly attributable to her future work, the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner's proposed endeavor would reach the level of "substantial positive economic effects" contemplated by Dhanasar. Id. Further, the Petitioner has not demonstrated that her business would benefit an economically depressed area. In the end, the economic benefits that the Petitioner claims will result from her endeavor depend on numerous factors and the Petitioner does not offer a sufficiently direct evidentiary tie between her proposed endeavor and the claimed economic results.

We recognize the importance of the financial services industry; however, the Petitioner's stated intention – to develop and manage an accounting and financial advisory services company – coupled with reports and articles regarding the significance of the financial services industry to the U.S. economy is insufficient to establish the national importance of the Petitioner's specific proposed endeavor. 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 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); 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.