U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34930621

Date: JAN. 06, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner 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 Nebraska Service Center denied the petition, concluding that the Petitioner did not establish eligibility 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.*

In her initial filing, the Petitioner stated that she intended to work in the United States as a financial manager to provide specialized services and planned "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." In support of this endeavor, she submitted a professional plan in which she explained that in order to provide these services she would rely on various processes and tools, including using data analytics, business intelligence, and financial planning and forecasting. Additionally, the Petitioner stated she would provide services to small and large businesses in both the private and public sectors, and could accordingly make significant contributions to the field and generate economic growth. She also indicated that she intends to "offer financial management consulting services to Latin American companies interested in expanding into the U.S. market," and could "help U.S. companies wishing to enter the Brazilian market." Ultimately the Petitioner emphasized that these financial management services would "bring significant benefits to both individuals and businesses alike, lead[ing] to a better financial future for all parties."

In response to the Director's request for evidence (RFE) requesting additional evidence on the substantive nature of her proposed endeavor, the Petitioner submitted a new professional plan stating that, as a financial manager, she intended to primarily focus on delivering "specialized services in [s]trategic [b]usiness [p]lanning, [f]inancial [m]anagement, [a]ccounting, and [p]eople [m]anagement, all geared towards achieving exemplary customer services within the business sector and the private banking industry." Additionally, she asserted she intended to "introduce a transformative initiative aimed at ushering in [d]igital [t]ransformations within the U.S. financial landscape." In her updated

[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).

professional plan, the Petitioner stated that her proposed endeavor would include executing activities tailored to the business and private banking sector, including: strategic business planning with data analytics; digital financial and tax management; blockchain for transparent financial analysis; artificial intelligence (AI)-driven accounting services; sales practices and personalized AI assistants; people management with a focus on digital era customer services; sustainable and inclusive fintech solutions; and chatbots for enhanced customer services. Within her new professional plan, the Petitioner also provided an overview of the benefits of each of these activities, and explained how these activities are generally executed in the industry. The Petitioner also asserted that the "crux of her proposed endeavor centers on the development and execution of a meticulous strategy to broaden the client portfolios of various companies operating within the banking sector [which would be] achieved through the creation of tailor-made financial services."

As additional evidence of the substantial merit and national importance of her endeavor, the Petitioner submitted an expert opinion, letters of recommendation from her former colleagues attesting to her expertise and success in the financial management field, and various industry reports and articles on the financial managers profession, U.S.-Brazil trade statistics, as well as articles discussing the shortage of financial advisors in the United States.[2]

The Director denied the petition, concluding that the record did not establish that the Petitioner qualifies for a national interest waiver because she did not meet the 3-prong *Dhanasar* framework. In regard to prong one, the Director determined that the record did not contain sufficient details describing the Petitioner's specific proposed endeavor, nor did she establish that her proposed endeavor has substantial merit or national importance. Instead, the Director concluded that the professional plans contained vague descriptions of concepts and general duties performed by financial managers, but did not consistently explain the Petitioner's specific plans for her work in the United States. For example, the Director noted that, while the Petitioner initially stated she would provide services to Latin American companies interested in doing business in the United States, as well as U.S. companies expanding into the Brazilian market, her new professional plan submitted in response to the Director's RFE did not elaborate or address how she intended to assist these companies. The Director also concluded that the evidence did not establish that the Petitioner's work would result in broader implications at a level commensurate with national importance beyond the direct benefits to her prospective employers or clients. And the Director determined that, despite her assertions, the record did not establish that the Petitioner's work as a financial manager will significantly enhance societal welfare, or have the significant potential to employ U.S. workers or otherwise result in substantial positive economic effects.

On appeal, the Petitioner asserts that the Director erred in concluding that her professional plan was vague, and claims the plan clearly delineates a comprehensive strategy that is specific and directly applicable to the needs of businesses in the United States. As an example, she reiterates her plans to offer specialized consulting services "to Latin American companies seeking to enter the U.S. market, as well as American companies planning to explore the Brazilian market," asserting that her expertise in navigating complex commercial laws is a critical component of her service offering. Notably, however, she does not acknowledge or address the Director's conclusion that the new business plan

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

submitted in response to the RFE did not address her plans to offer consulting services to Latin American companies or U.S. companies planning to expand into the Brazilian market, or otherwise explain how she would offer these consulting services. We acknowledge the Petitioner's assertions on appeal that the new professional plan does not represent a material change to her initial endeavor, but she does not explain, for example, how the methodologies and services outlined in her professional plan would allow her to assist U.S. companies to expand into the Brazilian market, or otherwise help Latin American companies operate in the United States. Instead, the Petitioner reiterates primarily the same arguments made before the Director pertaining to the prospective impact of her proposed endeavor.

Upon de novo review of the record, we disagree with the Director's determination that the Petitioner did not establish the substantial merit of her proposed endeavor, as the record contains articles discussing the importance of the financial managers field. Nonetheless, we agree with the Director's conclusion that the Petitioner has not established, by a preponderance of the evidence, that the proposed endeavor has national importance as contemplated under the *Dhanasar* framework.

On appeal, the Petitioner continues to rely on the importance of the financial services sector and the importance of bilateral economic relations between the United States and Brazil to establish the national importance of her endeavor, but does not establish that her endeavor would meaningfully impact the field or the economic relations between the United States and Brazil at a level commensurate with national importance. As stated, we agree that the evidence and assertions in the record regarding the importance of the industry demonstrate the substantial merit of her endeavor, but the industry alone is not sufficient to establish its national importance. Instead, when evaluating national importance, we "look for broader implications" of the proposed endeavor. *Dhanasar* at 889. For example, in *Dhanasar* we noted that "[a]n undertaking may have national importance because it has national or even global implications within a particular field." *See Dhanasar*, 26 I&N Dec. at 889. 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.

Additionally, we disagree with the Petitioner's claims that the services she intends to offer, including integrating emerging technologies like blockchain and AI technologies into financial services will result in substantial improvements to the industry. While the Petitioner's professional plans provide broad overviews of these tools and technologies she may use in executing her duties as a financial manager, the record does not establish how the Petitioner will impact the industry beyond the immediate benefits she may provide to her prospective employers or customers. Likewise, the Petitioner's similar claims that her use of advance technologies will restore investor confidence and promote responsible business practices are not supported by the record. She does not explain, for example, how using these emerging technologies in performing her work for her employers or prospective customers will result in broader implications to the field 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. 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).

We acknowledge the Petitioner's assertions on appeal that through her endeavor, she will be able to address deficiencies in financial literacy in the United States, the record does not establish that any services she would provide to her prospective customers would result in broader implications at a level commensurate with national importance. In the same way teaching activities proposed by the petitioner in *Dhanasar* were not shown to have a broader impact on the field of STEM education, activities which only benefit the Petitioner's customers or prospective employers would not result in broader implications in the field. *See Dhanasar* at 893.

Moreover, the testimonial evidence in the record, including the expert opinion letter from Dr. J-B-, do not establish the national importance of her endeavor. The expert opinion letter primarily focuses on the importance of the financial sector, as well as the Petitioner's specific experience, concluding that "her expertise in financial management has both substantial merit and national importance of the United States." However, beyond discussing the duties she could perform as a financial manager, which including helping companies grow, Dr. J-B- does not explain how this work would result in broader implications beyond the immediate benefits to her employers. For example, the expert generally reiterates that company growth could result in increased taxes and employment activities, but does not explain how the Petitioner's specific work would meaningfully impact this growth or otherwise establish that the increased in taxes and employment activities would be "substantial" as 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, while the Petitioner claims on appeal that the reference letters in the record "highlight her exceptional performance and her significant contributions to the financial sector," this evidence does not establish the prospective impact on her endeavor. Rather, the letters show that she was praised for her work in prior companies for her ability to exceed established goals and meet all pertinent deadlines. 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." *Dhanasar* at 890. The issue here is whether the Petitioner has demonstrated the national importance of her proposed endeavor. The letters of recommendation primarily focus on the Petitioner's past experience without addressing the prospective impact of her endeavor, and accordingly lack relevance with respect to the national importance of the Petitioner's proposed endeavor.

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. Although the record discusses the economic impact of the field, the Petitioner has not shown her specific work would result in substantial economic effects. For example, while any basic economic activity has the potential to positively impact a local economy, the record does not contain provided projected employment numbers and revenue growth

contributable to her specific endeavor to establish how her endeavor will result in substantial economic benefits discussed in *Dhanasar*. *Id.*

For the reasons discussed, the Petitioner has not demonstrated that her proposed endeavor would be of national importance, and she therefore does not meet the requirements of the first prong of the *Dhanasar* analytical framework.

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.