U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36184449

Date: JAN. 31. 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, a financial analyst, seeks second preference immigrant classification (EB-2) 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 EB-2 immigrant 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 qualified for the underlying visa classification as a member of the professions holding an advanced degree,[1] but that she 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) 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. *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

[1] The record demonstrates that the Petitioner has a foreign equivalent of a U.S. bachelor's degree in finance from [redacted] in Kazakhstan and five years of progressive experience in the field.

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 the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

Id.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national 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.*

II. ANALYSIS

The Petitioner, a financial analyst and accountant, intends to operate a financial consulting business, [redacted] offering "financial advisory, accounting and tax assistance services, as well as business courses with a special focus on immigrants" in California. The Petitioner claimed that her business would "help its clients do financial planning, manage debt, treat taxes and perform other financial services" and "contribute to national economic growth, increase tax payments, and create new jobs" in the United States. The Director concluded that the Petitioner's endeavor has substantial merit but not national importance under the first prong of the *Dhanasar*'s analytical framework.[3] The Director further concluded that the Petitioner is not well-positioned to advance her proposed endeavor under the second prong, and the evidence does not support that the endeavor, on the balance, would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification, under the third prong.

Upon review of the entire record, we adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS,* 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS,* 87 F3d 5, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). As discussed below, the Director's decision analyzed the pertinent evidence and determined that the record does not corroborate the Petitioner's claims that her endeavor meets the national importance element in *Dhanasar*.

The Director analyzed the industry related articles and reports that provide background information on the role of financial analysts and the problem of income gap but determined that they did not discuss

[2] *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).
[3] The Director's conclusion on the substantial merit of the endeavor is in the request for evidence issued March 6, 2024.

the Petitioner's specific endeavor or its impact with persuasive details. The Director stated that merely working in an important field is insufficient to establish the national importance of the proposed endeavor; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Dhanasar,* 26 I&N Dec. at 889. The Director further evaluated the Petitioner's business plan but determined that the plan does not provide sufficient basis for its projections and does not demonstrate "significant potential to employ U.S. workers or has other substantial positive economic effects" for any region or the nation. *Id.* at 890. Additionally, the Director noted that the record did not demonstrate that the Petitioner will pursue her endeavor in an economically depressed area.

On appeal, the Petitioner generally summarizes and reiterates the evidence previously submitted on record, such as her employment background, importance of small and medium-sized enterprises (SMEs), and economic impacts of her proposed business. The Petitioner contends that her business plan provides "a comprehensive and detailed plan for implementing innovative financial solutions" and strategies for "streamlining financial processes and adopting data-driven financial analysis to optimize cost management and compliance for SMEs." Despite the claims that the Petitioner's innovations will fill "a critical gap in the market," and set "new standards for financial efficiency and stability," the Petitioner has not submitted independent and corroborating evidence showing that her innovations and strategies will influence or impact the field of finance and business, rising to the level of national importance.

The Petitioner contends that the business plan's economic modeling and the Regional Input-Output Modeling System [RIMS II] multipliers quantifying indirect jobs support her endeavor's significant potential for job creation. The Petitioner states that her proposed business will produce "a ripple effect, enhancing the economic stability of the region and beyond." However, the business plan does not provide sufficient details for the basis of these projections, including the multiplier evidence itself, or adequately explain how these staffing targets will be realized. The Petitioner also has not submitted corroborating information or evidence regarding any projected U.S. economic impact or job creation directly attributable to her activities, aside from the claims made in the business plan. The Petitioner must submit relevant, probative, and credible evidence to establish the national importance of the proposed endeavor. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner further asserts that the Director did not analyze the expert letters highlighting her "unique financial strategies" and "widespread economic benefits that extend far beyond her immediate clientele." However, these letters are from the Petitioner's previous employers who attest to her dedication, work ethics, and experience as a competent financial analyst, without meaningfully analyzing or discussing how her proposed endeavor meets the national importance as defined in *Dhanasar*. In *Dhanasar*, we gave significant weight to "probative expert letters from individuals holding senior positions in academia, government, and industry that describe the importance of hypersonic propulsion research as it relates to U.S. strategic interests" and "detailed expert letters describing U.S. Government interest" in Dr. Dhanasar's specific research. *Dhanasar*, 26 I&N Dec. at 892. Here, the Petitioner has not provided similar evidence, such as the type of expert opinion evidence or letters from government entities detailing how her specific endeavor impacts a matter that is a subject of national initiatives or discussing the government's interest in promoting the use of the Petitioner's innovation or solutions.

In sum, the Petitioner has not provided any new evidence or compelling arguments that overcome the Director's determination. 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). The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters so as to determine whether they support the petitioner's eligibility. *Id.*; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). Because the letters do not discuss the proposed endeavor or its impact, they are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

Therefore, we are not persuaded by the Petitioner's claims on appeal that the Director overlooked relevant evidence in the record. To determine whether a petitioner has met her burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, the Director properly weighed various evidence to evaluate whether the Petitioner had demonstrated, by a preponderance of the evidence, that she meets the first prong of the *Dhanasar* framework but determined that the evidence overall lacked probative value.[4] We agree with the Director that the Petitioner has not provided evidence to support that her endeavor as a financial analyst or a business owner would have broader implications beyond her clients to impact the industry or the U.S. economy more broadly at a level commensurate with national importance. As the petition will remain denied for this reason, further analysis of the Petitioner's eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose. *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).

III. CONCLUSION

Because the Petitioner did not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, she has not demonstrated eligibility for a national interest waiver, as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

[4] While the Director may not have specifically named each piece of evidence in the record, this is not indicative of a failure to consider the evidence. *See Osuchukwu v. INS*, 744 F.2d 1136, 1142-43 (5th Cir. 1984) ("[The Board of Immigration Appeals] has no duty to write an exegesis on every contention."); *see also Ren v. USCIS*, 60 F.4th 89, 97 (4th Cir. 2023) ("[S]o long as [USCIS] has given reasoned consideration to the petition, and made adequate findings, we will not require that it address specifically each claim the petitioner made or each piece of evidence the petitioner presented." (cleaned up)); *Larita-Martinez v. INS*, 220 F.3d 1092, 1095-96 (9th Cir. 2000) (joining the Seventh and the Federal Circuit Courts of Appeals in presuming that the Board reviewed all of the evidence of record).