U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31300629

Date: JULY 11, 2024

Appeal of Texas 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 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 the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree, but she had not established 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

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. 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;
- The individual is well-positioned to advance their proposed endeavor; and

[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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner submitted evidence that she holds the equivalent of a United States baccalaureate degree and over five years of progressive experience in business administration. The Director determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether she qualifies for and merits a waiver of the job offer requirement in the national interest.

In her professional plans and personal statement submitted initially and in response to the Director's request for evidence (RFE), the Petitioner described her proposed endeavor as being a business administrator and consultant in the field of business operations for companies in the United States and foreign companies conducting business in the United States. The Petitioner proposed providing strategic planning, risk management, project and investment analysis, and supplier data management. The Petitioner stated she would also train professionals in business administration and entrepreneurship.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

The Director concluded, however, that the Petitioner did not establish the national importance of her proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that her work would sufficiently extend beyond her potential employers to impact her industry or the U.S. economy more broadly at a level commensurate with national importance.

On appeal, the Petitioner asserts her work will have broader implications and positive economic benefits that reach beyond her employers and clients to benefit the nation. The Petitioner claims that by optimizing contracts and commercial management, she will enhance business efficiency and competitiveness, which "can lead to increased profitability, higher tax revenue, and overall economic growth." The Petitioner states her project and process management will improve company productivity, and "boost the competitiveness of American business in the global market, potentially leading to increased exports and trade, thus positively impacting the national economy." The

Petitioner does not, however, specify or demonstrate how her work with individual companies and trainees would have broader implications for the field of business operations.

The Petitioner further claims her proposed endeavor will lead to job creation and long-term economic growth through development of supplier strategies and fostering of business relationships. However, the Petitioner proposes to work for individual companies and does not indicate that she would employ other individuals. In her professional plans, the Petitioner states her work will create new job opportunities, but she does not propose to employ workers herself and does not otherwise demonstrate how her work for individual companies would lead to long-term economic growth.

The Petitioner submitted letters from employers and colleagues who praise her past accomplishments, but do not discuss her proposed endeavor. For example, R-M-V-M-[2] described the Petitioner as assuming a leadership role and pushing her entire team in the right direction. R-M-V-M- affirmed the Petitioner "will always be a very important asset in organizations that have the chance to count on her work, as well as in the entire market in which she operates, whether in Brazil or abroad." U-F-S- and A-P-O- praise the Petitioner's ability to conduct and manage large projects. M-C- states the Petitioner has "a unique ability to boost the development of companies or projects in which she works." These letters attest to the Petitioner's experience and qualifications and are relevant to the second *Dhanasar* prong of whether petitioners are well-positioned to advance their proposed endeavors. The Petitioner's support letters do not, however, speak to the national importance of her specific proposed endeavor. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it related to U.S. strategic interests).

The Petitioner also submitted letters from V-L-, Associate Professor of Marketing at [redacted] and A-M-, Professor of Strategic Management and Entrepreneurship at the [redacted] expressing their opinions that the Petitioner is eligible for a national interest waiver. Professor M- states the Petitioner's proposed endeavor "has the potential to help businesses recover from the financial turbulence brought on by the COVID-19 pandemic." Professor L- states the Petitioner's proposed endeavor has national or global implications because she will expand communication channels in national and international markets, foster the growth of small and medium-sized enterprises, and train aspiring entrepreneurs and business professionals with her knowledge of the Latin American and U.S. markets. Professors L- and M- do not specify how the Petitioner's work for individual companies and trainees would extend beyond her employment to impact business operations on a national or global level. *See id.* at 889 (citing improved manufacturing processes or medical advances as examples of national or global implications within a particular field).

Professor L- also asserts the Petitioner's proposed endeavor has significant potential to employ U.S. workers and has other substantial positive economic effects, especially in economically depressed areas of the United States. Professor L- does not specify where the Petitioner intends to work, and the Petitioner did not identify any economically depressed areas of the United States in which she intends to work. Professor L- further states the Petitioner will help businesses generate revenue and increase the workforce through strategic methodologies and speaking at business sector events. Neither Professor L- nor the Petitioner identify any specific events at which the Petitioner plans to speak. Professor M- states the Petitioner's aim to improve businesses' productivity and profitability will

[2] We use initials to protect the privacy of individuals referenced in this decision.

contribute to taxable revenues and employment opportunities. However, Professors L- and M- do not specify how the Petitioner's work for individual companies and trainees would result in substantial positive economic effects on a level commensurate with national importance.

Both Professor L- and the Petitioner claim the Petitioner's proposed endeavor has national importance because it aligns with the federal government's interest in trade with Brazil and promoting small business growth. They claim the Petitioner will provide critical services to small businesses and other companies based on her knowledge of Latin American markets. The Petitioner submitted articles discussing the importance of small businesses to the national economy but did not submit information regarding U.S. trade with Brazil or Latin America. Nonetheless, our assessment of national importance does not focus on the importance of issues to the field in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. The Petitioner has not demonstrated that her proposed endeavor would have broader implications for U.S. small businesses or international trade. *Cf. id.* at 892 (citing media articles and other evidence documenting Congressional interest in Dhanasar's research).

The Petitioner also claims she will impact her field on a national level by conducting training on business administration. In her professional plan submitted in response to the RFE, she states she will promote events and train other professionals "thereby helping the nation enhance its business sector workforce." 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. Here, the Petitioner has not established that her proposed endeavor would sufficiently extend beyond her individual trainees to impact the field of business operations more broadly at a level commensurate with national importance.

Although the relevant evidence establishes the substantial merit of the Petitioner's proposed endeavor, it does not demonstrate the Petitioner's proposed endeavor would have significant potential to employ U.S. workers, other substantial positive economic effects, national or even global implications within the field, or other broader implications indicating national importance.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of her specific proposed endeavor and she does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of her eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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).

III. CONCLUSION

The Petitioner has not established the national importance of her proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, she has not demonstrated that she is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.