U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31840241

Date: JUL. 16, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a financial analyst, 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 that the Petitioner had not established that eligibility for 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 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;
- 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 first prong of the *Dhanasar* analysis, 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. *Dhanasar*, 26 I&N Dec. at 889. As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889.

The Director determined, and we agree, that the Petitioner established the substantial merit, but not the national importance, of the proposed endeavor. 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 specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889.

The Petitioner proposes to create [redacted] a financial consultancy company in Florida that will provide a comprehensive suite of services to businesses including, "refining their financial documentation, enhancing their tracking systems, and bolstering their overall fiscal stability, thereby easing their path to securing business loans from financial institutions." The financial assistance she proposes to provide is "expressly designed for small to medium-sized enterprises within the United States."

Regarding the Petitioner's proposed endeavor, the record does not include detailed and thorough plans to reach beyond her company to make a national impact. On appeal the Petitioner submitted additional articles such as "*How Financial Planning and Analysis Drive Business Agility and Performance*" and "*Bonds with Benefits: Impact Investing in Corporate Debt*" to establish the national importance of her proposed endeavor. Although these articles demonstrate the national importance of financial analytics and consultants, the matter here is not whether financial analytics and consultants are nationally important. Rather, the Petitioner must demonstrate the national importance of her specific endeavor that aims to provide financial analysis and automated systems management. The business plan included in response to the Director's request for additional evidence (RFE) indicates the Petitioner will, "be dedicated to providing consulting services to various entities that operate in the United States financial market and [will] help them make better decisions in monitoring, detecting, countering, and

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

preventing misconduct practices to decrease their reputation risk and regulatory risk and enhance business performance, thereby generating revenues within the country and creating employment opportunities." But she does not provide further explanation as to how this process will occur. 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). Here the record lacks specific, detailed plans to provide financial services on a national level.

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. Here too, while we agree with the Petitioner that financial analysis plays an important role in shaping and influencing the economic landscape, the record does not show how her proposed endeavor stands to sufficiently extend beyond her own company to lead to "national or even global implications" that will shape the economy more broadly at a level commensurate with national importance. *Id.* at 889. Likewise, we recognize that the Petitioner's endeavor of providing financial services to small and medium sized businesses could improve their fiscal outcome, but the Petitioner does not establish how the prospective impact of her company would have a broader impact consistent with national importance.

Moreover, the Petitioner stresses her "profound knowledge of the banking sector, with specialized insights into finance, automated systems, and operations management." But, the Petitioner's knowledge, skills, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar's* first prong. She also contends that according to the United States Bureau of Labor Statistics there is a 9% projected employment growth in the financial analyst industry and that this growing need for analysts amplifies the national significance of the proposed endeavor. However, growth of the industry and financial analyst occupations does not render her proposed endeavor nationally important under the *Dhanasar* framework. In fact, the demand for qualified workers is directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner presented an evaluation from Dr. [redacted] DBA, CPA with [redacted] who found the Petitioner's initial proposed endeavor has national importance. The letter discusses the importance of the Petitioner's financial services consultancy that proposes "to bridge the gap between financial institutions and small and medium-sized businesses," but does not explain, other than generalized statements, how the Petitioner's particular services would have broader implications for our country. Similarly, the Petitioner's submission of letters from businesses seeking financial services relate to the influence her company would have on those specific clients and companies, not the far reaching or national impact of her company.

Finally, while she provided a business plan for the proposed company, the Petitioner did not present any supporting evidence, corroborating the assertions and figures. Moreover, the Petitioner did not demonstrate how her business plan's claimed revenue and employment projections, even if credible or plausible, have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Although the business plan forecasts sales of $807K in year 5, the Petitioner did not establish the significance of this data to show that the benefits to the regional or

national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Similarly, even though the business plan claims the creation of 5-12 positions in year 5, the Petitioner did not demonstrate the relevance of these numbers and show that such future staffing levels would provide substantial economic benefits to Florida or the U.S. economy more broadly at a level commensurate with national importance. The Petitioner, for instance, did not establish that such employment figures would utilize a significant population of workers in the area or would substantially impact job creation and economic growth, either regionally or nationally. For all these reasons, the record does not demonstrate that, beyond the limited benefits provided to its prospective clients and employees, the Petitioner's proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

Because the documentation in the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of the Petitioner's eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose, as well as a review of the Petitioner's qualification for the underlying immigrant classification.[2]

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits 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.

[2] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where applicants do not otherwise meet their burden of proof).