U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31456245

Date: JUL. 16, 2024

Appeal of Texas 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 an advanced degree professional, 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 established she is an advanced degree professional but did not establish that a waiver of the required job offer, and thus that the labor certification, would be in the national interest.[1] 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. 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 a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest."

[1] The Director incorrectly stated the Petitioner's degree was found to be the U.S. equivalent of a degree in accounting. In fact, the Petitioner's evidence established her degree is equivalent to a U.S. bachelor's in industrial engineering. Because we agree with the Director's conclusion that she is eligible for EB-2 classification as an advanced degree professional, we will not remand the matter for this misstatement.

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 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as a matter of discretion, 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. at 889.

II. ANALYSIS

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 and its "potential prospective impact." *Id.* at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. 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. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual. 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. *Id.* As such, we will first identify the Petitioner's endeavor as shown in the record. Then, we will evaluate the Petitioner's evidence in support of the endeavor's substantial merit and national importance.

The Petitioner has established [redacted] (the Company), in Florida, for which she will serve as "Chief Executive Officer" and "Manager." The goal of the Company is to offer affordable and sustainable packaging solutions to small and medium enterprises (SMEs) in the United States. The Company will support SMEs and entrepreneurs new to a market and with limited resources by providing low purchase volumes and assistance with "product positioning" to enable successful product launches and business growth. Additionally, the endeavor aims to manufacture and export packaging products from the United States to reduce reliance on imported packaging products. The Company will manufacture "reusable bags that can be repurposed as attractive and practical cases or bags" to support environmental, sustainability efforts. The Company will invest in machinery and skilled personnel to "produce quality products and will establish a sales team and a packaging division to cater to its own needs as well as those of external customers." The Company will have six sectors: sales, manufacturing, packaging, design, international trade, and research and development.

The Director determined the Petitioner's endeavor does not have substantial merit however no analysis was provided to explain why they reached that conclusion. Based on the evidence of record, particularly the Petitioner's articulation of her endeavor as well as the multitude of documents she provided to establish the importance of: the fields of industrial engineering, eco-friendly packaging

solutions, small businesses and entrepreneurship, biotechnology, innovation in plastics and biomanufacturing, and recycling, we disagree and conclude her endeavor has substantial merit. Because the endeavor has substantial merit, we turn to whether the proposed endeavor is of national importance, under the standard set forth in *Dhanasar*.

On appeal, the Petitioner submits a brief in which she advances several arguments. First, she generally contends the Director's decision includes misunderstandings and misapplications of the law that go beyond harmless error to reach the level of abuse of discretion. Specifically, the Petitioner points out that the Director's conclusion that "the self-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" ignores the multiple statements provided by the Petitioner in the initial petition and in her response to the Director's request for additional evidence (RFE). We agree with the Petitioner as it relates to the Director's lack of analysis of the endeavor's substantial merit. Therefore, we withdraw the Director's determination and conclude, as stated above, that her endeavor has substantial merit. However, upon de novo review, and for the reasons stated below, the totality of the evidence does not establish the Petitioner's endeavor is of national importance.

Second, the Petitioner asserts the Director disregarded some of the evidence she submitted in her RFE response, particularly her "well-defined proposed endeavor submitted . . . as well as the substantial supporting evidence from reputable, objective sources speaking to the importance of the Petitioner's endeavor to the field and nation as a whole." Here, she emphasizes that her endeavor includes reducing the environmental impact of SMEs by "implementing innovative and sustainable packaging solutions tailored to their individualized needs and ultimately reducing their resource usage." She further emphasizes her endeavor will utilize "new bioplastic materials with high biological content," and will collaborate with others in the field to reduce the carbon footprint in those materials coming from petroleum, and the environmental impact of packaging. She also continues to assert that her endeavor will lead to successful product launches and sustained growth by providing flexible purchasing options and strategic product positioning, which will help businesses thrive and survive. She maintains that her plan to manufacture and export packaging products will reduce U.S. dependence on imported packaging materials and because of her commitment to using sustainable materials also aligns with our government's sustainability goals to minimize the environmental impact of packaging. Finally, she contends this will democratize access to high-quality packaging. Again, we agree that the Petitioner's description of her endeavor (along with the submitted reports and articles) are sufficient to establish it is of substantial merit. However, apart from her assertions, as the Director correctly noted, the Petitioner's proposed endeavor was not supported by independent and objective evidence to establish its national importance.

Third, the Petitioner asserts the Director failed to analyze all the evidence to her detriment and cites to *Buletini v. INS*, 860 F. Supp. 1222, 1233 (ED Mi. 1994) for the proposition that failure to consider all the relevant evidence submitted by a plaintiff constitutes abuse of discretion. While we agree with the Petitioner's contention as it relates to the Director's analysis of the proposed endeavor's substantial merit, we do not find the court's decision in *Buletini* supports that the Director's analysis of her endeavor's national importance is reversible error. The Director correctly noted the Petitioner "repeatedly relies upon arguments related to the importance of the field, rather than the importance of the proposed endeavor." As such, the Petitioner's reliance on *Buletini* is not sufficient to overcome the record's shortcomings and she has not established the Director abused their discretion by not

providing individualized analysis of each piece of evidence. In fact, courts have held that if USCIS provides a reasoned consideration of a petition, it will not be required to specifically address each claim a petitioner makes or address every piece of evidence a petitioner presents. *See Ren v. USCIS*, 60 F.4th 89, 97 (4th Cir. 2023) (stating "[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."); and *see Osuchukwu v. INS*, 744 F.2d 1136, 1142-43 (5th Cir. 1984) (stating "[The Board of Immigration Appeals] has no duty to write an exegesis on every contention"). Here, the Director's analysis of the endeavor's national importance was admittedly sparing, yet it correctly noted that we must consider the endeavor's "potential prospective impact" and that it is not the importance of the field, industry, or profession in which the Petitioner will work, but the specific endeavor the individual proposes to undertake that establishes its national importance. *See Dhanasar,* 26 I&N Dec. at 889.

Fourth, the Petitioner highlights the packaging industry's impact on our economy, asserting that it contributes $537.91 billion to the U.S. economy, which is equivalent to 2.5% of our gross domestic product. Further, she highlights that 489,440 individuals are employed in this industry, with an additional 540,554 jobs created by "suppliers who provide various products and services to the packaging industry." Finally, she explains that the industry generates an additional 659,817 jobs through the induced impact of its economic contribution. The Petitioner's sources relating the value of the packaging industry supports our conclusion that her endeavor has substantial merit, however, they do not establish her endeavor's national importance. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (standing for the proposition that assertions must be supported with relevant, credible, and probative evidence). We again reiterate that under the proper *Dhanasar* standard, it is not the importance of the field, industry, or profession that establishes an endeavor's national importance, but the "potential prospective impact," of the endeavor itself. For example, were the Petitioner's endeavor to create 540,554 jobs, she would likely have established its national importance under *Dhanasar*, however here, the Petitioner's evidence relates to the field in which she will work, and not the prospective impact of her endeavor, which is why her assertions and the evidence submitted to support them are insufficient to establish her burden. *See Matter of Chawathe*, 25 I&N Dec. at 375-76.

The Petitioner next asserts that the Director failed to consider that Florida, where the Company is located, was chosen for this endeavor because all its counties have a strong commitment to the internal revenue service's (IRS) Opportunity Zone program, and her endeavor will contribute to the economic revitalization of the state, which aligns with Florida's economic objectives. The Petitioner's contention lacks persuasion however because the Company does not have a physical location, thus the Petitioner has not offered sufficient evidence to establish her business will have the impact she describes. *Id.* The documents provided to establish the Petitioner incorporated the Company in Florida do not include a lease agreement for the property listed on the incorporation and IRS documentation. Furthermore, the registered agent [redacted], which is listed on the Company's electronic articles of organization, appears to be physically located at the address the Petitioner uses for the Company's Florida and IRS documentation. Given the Petitioner does not provide any evidence to establish its actual location (i.e. a lease agreement), a preponderance of the evidence supports the conclusion that the Company's registered agent conducts business using that address, but not the Company. *See Matter of Chawathe*, 25 I&N Dec. at 375-76. This further undermines the Petitioner's assertions that she will operate in a Florida Opportunity Zone and help the state's revitalization. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (standing for the

proposition that any inconsistencies in a petitioner's evidence may lead to reevaluation of the remaining evidence offered in support of the visa petition.)

The Petitioner cites to *Love Korean Church v. Chertoff*, 549 F 3d 749 (9th Cir 2008), for the proposition that imposing a novel criterion not mandated by *Dhanasar* is an abuse of discretion. Specifically, the Petitioner contends that *Dhanasar* does not require an impact of national scale, in geographic terms, and that the Director's "assertion that the record does not detail how the endeavor's impact would operate on such a large scale as to rise to the level of national importance and benefit the national economy lacks basis" is legal error. We agree with the Petitioner's general contention that there is no requirement under *Dhanasar* for an endeavor to touch the national economy to establish its national importance. However, the Director's analysis not only did not require a "large scale" impact, and nowhere in the decision is this language found but furthermore, the decision's analysis correctly noted that the Petitioner's evidence failed to establish the endeavor's national importance, instead relying on the importance of the field. The Director also noted the lack of evidence to establish the broader, prospective impacts (economic, cultural, social) attributable to the Company, which is the Petitioner's burden. *See Matter of Chawathe*, 25 I&N Dec. at 375-76.

The Petitioner also contends that employing people is not inherently necessary to meet *Dhanasar's* national importance standard. Again, while we agree with the Petitioner's contention, the Director's decision did not state that *Dhanasar* mandates employing people to establish the national importance of an endeavor. We note the Director correctly cited to *Dhanasar's* language holding 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, the Petitioner herself makes several assertions related to her endeavor's importance because it will boost the economy, and support SMEs. While the assertions support the endeavor's substantial merit, they do not support its national importance without evidence to establish the Company's actual prospective economic impacts (which could include employing individuals but does not have to). *See Matter of Chawathe*, 25 I&N Dec. at 375-76.

Several times in her appeal brief, the Petitioner mentions her national importance statement to highlight the most relevant evidence the Director failed to consider. This document reviews her work experience, discusses the growth of the global bioplastic packaging market, discusses her reasons for choosing Florida to establish the Company, and ends with a few sentences under the subheading "HOW WE WILL DO IT" (meaning carry out the Company's goals). The assertions found in this document have been considered, however they are insufficient to establish her burden by a preponderance of the evidence, because they are not supported by independent, objective evidence. *See id.* Furthermore, the evidence of the Petitioner's educational and work experience background as well as the letters of interest from potential clients and customers relate to the second prong of *Dhanasar's* analytical framework, where we consider whether the Petitioner is well-positioned to advance her proposed endeavor. *Id.* at 890.

We acknowledge the Petitioner's evidence relating to the importance of STEM fields and our government's initiatives aimed at attracting STEM talent, however these documents support the endeavor's substantial merit but not its national importance. *Id.* at 889. For example, in *Dhanasar*, we determined that while proposed classroom teaching activities in STEM may have substantial merit

in relation to U.S. educational interests, such activities, by themselves, generally are not indicative of an impact in the field of STEM education more broadly, and therefore generally would not establish their national importance. *Id*. at 893. Similarly, here, while the services the Petitioner intends to offer to her clients may be highly beneficial to them, this is not indicative of a broader impact on the field of industrial engineering, eco-friendly packaging, recycling, product placement, or bio-plastics, in general. In sum, we agree with the Director that the Petitioner has not shown that the implications of her endeavor go beyond any individual client to which the Company provides services at a level commensurate with national importance.

B. *Dhanasar's* Second and Third Prongs

As the Petitioner has not established the national importance of her proposed endeavor, we decline to reach and hereby reserve her arguments regarding her eligibility under the second and third *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting 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

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.