U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37077722

Date: MAR. 03, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a chemical engineer and entrepreneur, 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 did not establish that a waiver of the required job offer, and thus of a 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. *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 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).

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

Id.

II. ANALYSIS

The Petitioner is a chemical engineer who aims to establish and act as the chief executive officer (CEO) for [redacted]. Through [redacted] the Petitioner intends to provide "specialized services to industrial chemistry and food manufacturers." Specifically, the Petitioner aspires to "allow [c]hemical and [f]ood [i]ndustry companies' operations to be more efficient and profitable, helping companies in their administrative and project management, and creating specifications to optimize their industrial processes' productivity, safety, profitability, and competence," in addition to "assist[ing] the customers in obtaining globally recognize certification. . .." The Petitioner specified [redacted] would assist in "ensuring food safety from farm to table," while maintaining and updating its website.

The Director denied the petition, concluding the record did not establish the substantial merit and national importance of the proposed endeavor; that the Petitioner is well positioned to advance the proposed endeavor; or that, on balance, it would be beneficial for the United States to waive the requirements of a job offer and thus a labor certification.

A. Substantial Merit and National Importance

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.* The Petitioner has demonstrated her proposed endeavor has substantial merit.

However, the Petitioner has not met her burden of demonstrating the proposed endeavor is of national importance. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* 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.

On appeal, the Petitioner expresses her disagreement with the Director's denial decision. The Petitioner claims the Director did not comprehend the role of the Petitioner in the proposed endeavor, the relevance of her business, or the services Petitioner intends to execute. The Petitioner contends the Director did not properly analyze her business plan, asserting that only half of those documents were reviewed and "[r]eputable surveys, several letters from experts in the field, potential partners and investors, declarations from past employees and accurate scientific data were ignored in the adjudication." Further, the Petitioner indicates the Director's analyses on the first and second *Dhanasar* prongs were inappropriate. The Petitioner indicated a brief containing further details would be "submitted within 30

days," but the record does not contain such a brief. And in making these initial claims on appeal, the Petitioner does not specify the manner in which she believes the Director did not properly view her business, its services, or her own role in the business. Similarly, the Petitioner does not articulate her basis for asserting the Director only reviewed half of the documents in her business plan and "ignored" the others or articulate the specific grounds on which she finds the Director's prong one and two analyses to be inappropriate.

Upon review, the Director found the Petitioner intended to act as the CEO of [redacted] offering a range of services to "safeguard public health and maintain consumer confidence in the U.S. food supply." The Director summarized [redacted] intended services, as articulated by the Petitioner in her initial petition and in response to the Director's request for evidence. We concur with the Director that the Petitioner has not demonstrated the provision of these services to clients, including industrial chemistry and food manufacturers, would result in broader implications to the industry at a level commensurate with national importance. The Petitioner previously asserted her endeavor is in a field of STEM technologies and research, chemical engineering, and highlights the importance of alleviating the shortage of workers in these STEM fields. However, while we recognize the value of the fields implicated in the Petitioner's endeavor, including food safety and quality, and the value of technological innovations and emerging technologies in chemical engineering, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. The relevant question is not the importance of the field, industry, or profession in which the Beneficiary may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. Here, the Petitioner has not sufficiently detailed or established how her particular endeavor will meaningfully impact the broader governmental initiative of chemical engineering or the relevant fields, including food safety and quality assurance. Further, as noted by the Director, the alleged shortage of occupations or occupational skills does not render a proposed endeavor nationally important under *Dhanasar* and such shortages are directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner also previously indicated that [redacted] plans to employ 16 individuals by its fifth year of business operations, with payroll expenses totaling nearly one million in that year, and a net worth exceeding 500,000 dollars. However, the Petitioner has not submitted sufficient supporting evidence corroborating these projected employment and financial figures, as indicated in the business plan, or established the significance of the data to show the endeavor would provide substantial economic benefits to the region or national economy more broadly. While any economic activity has the potential to positively impact the economy, the Petitioner has not demonstrated how the potential economic activity of her specific endeavor stands to create substantial positive economic effects to the requisite level.

Overall, the Petitioner has not established her proposed endeavor of establishing and serving as CEO of [redacted] will further the impacted fields in a nationally significant manner, have broader implications in these fields, have significant potential to employ U.S. workers, or have substantial positive economic effects. As such, the Petitioner has not demonstrated the national importance of the proposed endeavor her eligibility for a discretionary national interest waiver.

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional 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

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.

ORDER: The appeal is dismissed.