U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36984556

Date: MAR. 14, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a lawyer, seeks 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 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 Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner qualified for EB-2 visa classification. The Director further concluded the record did not support a finding 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)(A), (B) of the Act; 8 C.F.R. § 204.5(k)(1).

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 and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that: (1) the proposed endeavor has both substantial merit and national

[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).

importance; (2) the individual is well positioned to advance the proposed endeavor; and (3) on balance, waiving the requirements of a job offer and a labor certification would benefit the United States. *Id.*

II. ANALYSIS

The Petitioner earned a degree of bachelor's in law (Titulo de Bacharel em Direito) from [redacted] in January 2006 and a graduate certificate in business law from [redacted] in August 2016. The Petitioner also submitted various reference letters to demonstrate that she has worked as a lawyer in Brazil with "a primary focus on real estate and banking law." The Director concluded that the Petitioner is not eligible for the EB-2 classification as a member of the professions with an advanced degree.[2] Because we nevertheless find that the record does not establish that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest, we reserve our opinion regarding whether the Petitioner satisfies the EB-2 eligibility criteria. *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).

On Part 6 of the petition, the Petitioner identified her intended occupation as "CEO." The Petitioner described her proposed endeavor as operating a consulting firm [redacted] that "offers specialized Business-to-Business (B2B) consulting services tailored for U.S. banks and financial institutions interested in entering the Brazilian market." The Petitioner explained that her company will offer services that "strive to deliver practical strategies that enhance sales outcomes and deepen market reach in Brazil," provide training to mortgage specialists on "client engagement tactics" and "efficient processes for mortgage applications and approvals," and advise customers in filling out mortgage loan applications with understanding of "risks, and advantages of different mortgage options."

The Director determined that the record does not satisfy the first prong of *Dhanasar* as it did not show that the Petitioner's proposed endeavor is of national importance. In determining the endeavor's national importance, we focus on "the specific endeavor that the foreign national proposes to undertake" and look to evidence showing the endeavor's "potential prospective impact." *Dhanasar*, 26 I&N Dec. at 889. We also evaluate the specific endeavor's "broader implications," rather than the general descriptions of work or the industry in which the petitioner proposes to engage based on her background and skills, as "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We further noted that endeavors with "significant potential to employ U.S. workers" or those having "substantial positive economic effects, particularly in an economically depressed area" may have national importance. *Id.* at 890.

On appeal, the Petitioner contends that the Director misapplied the preponderance of the evidence standard and that the totality of the evidence establishes national importance of her endeavor. Under the preponderance of the evidence 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 375-76; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). The Petitioner's primary

[2] The Petitioner sought EB-2 classification only as a member of the professions holding an advanced degree and therefore, the Director did not consider her eligibility as an individual of exceptional ability.

evidence for establishing national importance of her endeavor consists of the industry articles and reports, reference letters, an expert opinion letter, and a business plan. Upon examination of each piece of evidence, we conclude that the Director properly analyzed and weighed the Petitioner's documentation by a preponderance of the evidence, and the record is not sufficient in linking the Petitioner's claims of national importance to her proposed endeavor, as discussed below.

In asserting that her proposed endeavor has national importance, the Petitioner submitted various reports and articles showing the expansion of the construction industry, the growth of the real estate and housing market, and the importance of the mortgage industry, and the value of commercial and trade relations between Brazil and the United States. While these reports bring awareness to issues relevant to the field in which the Petitioner intends to work, they do not discuss the specific impact of the Petitioner's consulting services on the mortgage industry or field as a whole or establish how her proposed endeavor has national importance as discussed in *Dhanasar*. The relevant question here is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889.

Moreover, the expert opinion letter in the record, resubmitted on appeal, does not meaningfully address the details of the proposed endeavor and why it would have national importance. The letter summarizes the Petitioner's experience in the various areas of law, including "banking, civil law, contracts, business, consumer, family, and real estate law" from Brazil and broadly claims that the Petitioner's consulting company offering B2B services to U.S. banks and financial institutions seeking entry into the Brazilian market will have a significant and positive impact on the U.S. economy by "[facilitating] cross-border business transactions, fostering economic growth and international trade." Yet the letter lacks specific examples as to how a lone consulting company can make such substantial economic impact to the field. The letter generally claims that the Petitioner's endeavor will generate revenues and create employment opportunities, leading to "a meaningful contribution to the nation's economic prosperity and competitiveness on the global stage" but does not explain in detail any projected U.S. economic impact or job creation specifically attributable to the Petitioner's services or company.

The Petitioner's business plan makes various financial projections and includes a personnel plan outlining the creation of 21 employees by the fifth year. However, the record does not include any evidence-based justifications for its staffing projections and the need to hire additional employees, and thus does not demonstrate a significant potential to employ workers. While the business plan anticipates a net income of $875,748 (after taxes and expenses), with $207,671 in payroll taxes by the fifth year, the record does not sufficiently detail the basis for its revenue and tax forecasts or adequately support how the Petitioner's company will specifically achieve these projections. The Petitioner must support her assertions raised in the business plan with relevant, probative, and credible evidence. *Chawathe*, 25 I&N Dec. at 376.

On appeal, the Petitioner reiterates her desire to contribute to the U.S. economy and the mortgage industry and submits additional evidence, such as a report from the World Bank Group to demonstrate the challenges of entering the Brazilian market and an article discussing the U.S. government's investment in various consulting and project management services. However, the Petitioner does not sufficiently corroborate her claims with specific, probative evidence to demonstrate that her consulting

firm's future staffing levels and proposed business activities stand to provide the claimed substantial economic or other nationally important benefits as contemplated by the *Dhanasar* framework. Furthermore, the Petitioner has not demonstrated that the proposed endeavor extends beyond her future clients, to impact the field or any other industries more broadly at a level commensurate with national importance.

Based on the foregoing, the Petitioner has not demonstrated that her proposed endeavor would be of national importance, and she therefore does not meet the requirements of the first prong of the *Dhanasar* analytical framework. As the identified basis for denial is dispositive of this appeal, further analysis of her eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose.[3]

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

[3] The Director concluded that the Petitioner is well-positioned to advance her proposed endeavor but did not provide any analysis on the second prong of the *Dhanasar* framework. We note here that it is unclear whether the Petitioner's credentials and experience as a business lawyer in Brazil makes her well-positioned for working as CEO of her mortgage consulting company; however, we reserve this issue for future consideration should the need arise.