U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30336068

Date: MAR. 15, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a project manager, proofreader, and localization manager, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. See section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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.[1] 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.

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

[1] Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

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,[2] 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.

## II. ANALYSIS

The Petitioner proposes to establish a proofreading and localization services business in the United States having worked as a project manager and proofreader in Brazil. The Director determined that the Petitioner established her eligibility as a member of the professions holding an advanced degree.[3] However, the Director concluded the Petitioner did not establish that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Director found that while the Petitioner demonstrated the proposed endeavor has substantial merit, she did not establish that the proposed endeavor is of national importance, as required by the first prong of the Dhanasar analytical framework. The Director further found that while the Petitioner established she is well positioned to advance the proposed endeavor under *Dhanasar's* second prong, on balance, it would not be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification under Dhanasar*'s* third prong. We note, the Director did not provide an analysis for the determinations under *Dhanasar's* second and third prongs. Upon de novo review, we agree with the Director's determination that the Petitioner did not demonstrate that a waiver of the labor certification would be in the national interest.[4]

The first prong of the Dhanasar analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner 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 national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." Matter of Dhanasar, 26 I&N Dec. at 889.

The Petitioner's statement indicates that she proposes establish a proofreading and localization services business for which she would work as its chief executive officer, general manager, and senior

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

[3] To demonstrate she is an advanced degree professional, the Petitioner submitted her diploma granting her a title of licentiate in language arts from [redacted] in Brazil, the corresponding academic transcripts, an academic evaluation, and letters from her previous employer. The record demonstrates that she holds the foreign equivalent of a U.S. bachelor of arts in foreign languages and at least five years of progressive experience in her specialty. See 8 C.F.R. § 204.5(k)(3).

[4] While we may not discuss every document submitted, we have reviewed and considered each one.

proofreader and localization professional. The business plan explains that the business' headquarters will be in [redacted] Maryland, "strategically located to target businesses established in the mid-Atlantic region . . . ." The business would "help small business in the region to navigate confidently and compliantly through this international trade hub and make profit off it, since trade operations relies on agreements and other written documents that have got to be clearly understandable to each part involved in a deal." The plan also explains that it would work with U.S. companies and investors interested in investing in Brazil, and with Brazil companies and investors interested in doing business in the United States. The business would assist companies to communicate effectively by offering proofreading services to prevent writing errors and localization services to translate foreign languages while preserving the meaning and adapting content, products, and services to specific local markets. The business plan points out that while the business does not intend to offer business consulting or legal services, it would help "Brazilian investors to clearly understand what is in an agreement, contract, investment prospectus, or any written document existing in a transaction between natural or legal persons that is originally written in English." We agree with the Director that the Petitioner's proposed endeavor has substantial merit.

Even though the Petitioner's proposed endeavor has substantial merit, the Director found that the record does not establish that her proposed endeavor has the potential to have a broader impact beyond her business and her clients at a level commensurate with national importance. Therefore, the Director found that the Petitioner did not establish the national importance of her proposed endeavor, and she did not meet the first prong of the Dhanasar framework.

The Petitioner argues on appeal that her proposed endeavor has national implications beyond her business and clients. With her professional knowledge and experience, the Petitioner claims she recognizes the significance of cultural integration making her "well-equipped" to attract and guide "global talent" which would strengthen the U.S. economy and technological competitiveness. She argues that the evidence in the record, particularly her statement and business plan, shows by a preponderance of the evidence the potential impact of her proposed endeavor, including economic and social welfare benefits; her commitment to transferring her professional knowledge to her employees to expand the workforce; and her business would support national initiatives and government programs related to language services, localization, and cross-cultural communication. Upon de novo review, we find the record does not demonstrate that the Petitioner's proposed endeavor satisfies the national importance element of *Dhanasar's* first prong, as discussed below.

The standard of proof in this proceeding is a preponderance of the evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. Matter of Chawathe, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. Id.; Matter of E-M-, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, the Director properly analyzed the Petitioner's documentation and weighed the evidence to evaluate the Petitioner's eligibility by a preponderance of the evidence.

The Petitioner's reliance on her professional knowledge and experience to establish the national importance of her proposed endeavor is misplaced. Her professional knowledge and experience relate to the second prong of the Dhanasar framework, which "shifts the focus from the proposed endeavor to the foreign national." Matter of Dhanasar, 26 I&N Dec. at 890. The issue here is whether the

specific endeavor that the Petitioner proposes to undertake has national importance under Dhanasar 's first prong. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. See id. at 889.

The Petitioner argues that her proposed endeavor would support the U.S. economy and has "significant potential to employ U.S. workers" in accordance with Dhanasar. She contends, "an entrepreneur who creates jobs qualifies as an endeavor as having national importance, although technically it may not be national in scope." She points to the language in Dhanasar arguing, "Please note that 'significant potential to employ U.S. workers' is different from 'potential to employ a significant number of U.S. workers.'" She stresses "the potential is to create jobs, without any minimum standard . . . ." She claims the financial and personnel projections described in the business plan were prepared by an economist and clearly show her business would employ U.S. workers, including linguistic professionals, translators, proofreaders, and localization experts, and thus has national importance in accordance with Dhanasar. She further argues on appeal that her endeavor would support the U.S. economy with: business profits, employment expansion, tax revenue, enhancing export potential for businesses, support to small and medium-size businesses, foreign investments to the U.S. market, support to technological advancements such as machine translation and artificial intelligence, contributions to economic diversity and resilience broadening the economic landscape, and support to tourism and hospitality by attracting international visitors.

With the petition, the Petitioner submitted her statement and a business plan which indicate her proposed endeavor has national importance based on potential economic and social welfare benefits; its support of national and government initiatives related to linguistics; and her transferring her professional knowledge to her employees through training, mentoring, and professional development. The business plan provides financial and personnel projections for the next five years. The plan states, "Through modest beginnings in $25,000 in startup funds and hard work from the owner and the skillful team, [the business'] net worth grows from $250,000 in Year 1 to $1.6 million in Year 5." Based on these projections, the business expects to create 15 direct jobs and 74 indirect jobs, and generate over $700,000 in payroll revenue and over one million dollars in taxes. The business plan also explains the Petitioner's experience; her sole ownership of the business; the business' services; a general market analysis of businesses in the mid-Atlantic region and in Brazil; and the business' projected marketing and sales strategy, staffing, and financial forecasts.

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 the field more broadly. Id. at 893. Likewise, the Petitioner's claims that she would transfer her professional knowledge to her employees through training, mentoring, and continuous development does not rise to the level of having national importance. Also, the record does not demonstrate that the Petitioner's proposed endeavor will substantially benefit the fields of proofreading and localization, as contemplated by Dhanasar: "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." Id. The evidence does not suggest that the Petitioner's proofreading and localization services business would impact the proofreading and localization services fields more broadly.

The record also does not sufficiently document the potential prospective impact, including the asserted economic and social welfare benefits. It does not sufficiently detail the basis of its financial and staffing projections, or adequately explain how these projections will be realized. The Petitioner's claims that her proofreading and localization services business would benefit Maryland, the mid-Atlantic region, and U.S. economies have not been established through independent and objective evidence. The Petitioner's statements are not sufficient to demonstrate her endeavor has the potential to provide economic benefits. The Petitioner must support her assertions with relevant, probative, and credible evidence. See Matter of Chawathe, 25 I&N Dec. at 376. The Petitioner has not provided corroborating evidence demonstrating that her business' future staffing levels and business activities stand to provide substantial economic benefits to Maryland, the mid-Atlantic region, and the United States.

While the Petitioner expresses her desire to contribute to the United States and small businesses in the mid-Atlantic region, she has not established with specific, probative evidence that her endeavor will have broader implications in her field, will have significant potential to employ U.S. workers, or will have other substantial positive economic effects in the mid-Atlantic region or in the United States. Even if we were to assume everything the Petitioner claims will happen, the record lacks evidence showing that creating 15 direct jobs and 74 indirect job, and generating over $700,000 of payroll revenue and over one million dollars in taxes rises to the level of national importance. Also, without sufficient documentary evidence that her proposed job duties as the owner, chief executive officer, general manager, and senior proofreader and localization professional for her proofreading and localization services business would impact her field more broadly, rather than benefiting her business and proposed clients, the Petitioner has not demonstrated by a preponderance of the evidence that her proposed endeavor is of national importance.

The record includes an article relating to the importance of localization services to international business. We recognize the importance of certain industries and their related careers; however, merely working in an important industry, such as the proofreading and localization fields, or starting a proofreading and localization services business is insufficient to establish the national importance of the proposed endeavor. Instead, of focusing on the importance of an industry or the need for workers in a specific industry, we focus on the "the specific endeavor that the foreign national proposes to undertake." See Matter of Dhanasar, 26 I&N Dec. at 889. 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. The article submitted focuses on the importance of localization to international businesses and does not show a projected economic impact specifically attributable to the Petitioner's proposed endeavor.

The record also includes an opinion from [redacted] associate professor of marketing at [redacted] The opinion includes an analysis of the national importance of the Petitioner's proposed endeavor stating, "[The Petitioner] would work in the United States in an area of substantial merit and national importance". (emphasis omitted). The opinion contends the Petitioner's professional knowledge and experience "will significantly contribute to the nation's economy by optimizing U.S. companies' resources, increasing productivity, reducing costs, and

generating revenue." The opinion briefly describes the Petitioner's experience and her intention to provide her proofreading and localization services to small businesses in the mid-Atlantic region. "With her expertise in Portuguese and French languages, [the Petitioner] will provide U.S. businesses with high quality proofreading and linguistics services needed to successfully expand their reach to global markets." The opinion reiterates the business plan's projected jobs and financial forecasts, and based on these projections and the Petitioner's professional experience, the opinion states that her work has "national importance for the United States." However, the opinion generally restates information provided in the business plan and does not explain the basis for these employment and financial projections. Also, the opinion's focus on the Petitioner's proofreading and localization knowledge and experience does not show the national importance of her proposed endeavor, but instead relates to *Dhanasar's* second prong.

The Petitioner does not demonstrate that her proposed endeavor extends beyond her business and her future clients to impact the field of linguistics or the U.S. economy more broadly at a level commensurate with national importance. Beyond general assertions, she has not demonstrated that the work she proposes to undertake as the chief executive officer, general manager, and senior proofreader and localization professional for her proofreading and localization services business offers original innovations that contribute to advancements in her industry or otherwise has broader implications for her field. The economic and social welfare benefits that the Petitioner claims depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between her proposed linguistics work and the claimed economic and social welfare results.

Because the documentation in the record does not sufficiently establish the national importance of the Petitioner's proposed endeavor as required by the first prong of the Dhanasar precedent decision, she has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under the second and third prongs. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) ("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 find that the Petitioner has not established eligibility for a national interest waiver as a matter of discretion.

The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.