U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37442587

Date: MARCH 18, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a tax professional, 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 that the record did not establish 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 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 Director determined the Petitioner qualified for EB-2 classification as an advanced degree professional because she submitted evidence that she holds a bachelor's degree in fiscal sciences and has over five years of progressive experience in her specialty. We agree. The only issue on appeal is whether the Petitioner qualifies for a waiver of the job offer requirement in the national interest.

In her business plan, the Petitioner states she will serve as the chief executive of a limited liability company providing customized trade compliance support and services including development of strategic compliance plans, in-depth performance analysis, efficient resource allocation, and accurate performance reporting. The business plan states the company will operate in Florida but provide services across the nation.

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. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that her proposed endeavor has significant potential to employ U.S. workers or other substantial positive economic effects and would impact her industry more broadly.

On appeal, the Petitioner asserts the Director erred and her company has national importance because it has significant potential to employ U.S. workers and generate substantial positive economic effects. The Petitioner cites no evidence to support this claim. The Petitioner's business plan projects the company will employ over 50 individuals the first year, increasing to around 120 employees by the end of the third year. The record does not establish that the employment of up to 120 individuals is significantly high in the Petitioner's field. The business plan also estimates the company will have a profit after tax of between $162,130 and 315,570 the first year, increasing to between $886,518 and $1,348,201 in the fifth year. The record does not demonstrate that such profit would result in a substantial positive economic effect in an industry that the business plan states has a 2024 estimated market size of $52 billion.

The Petitioner also claims her company will positively impact societal welfare by enhancing the accessibility and efficiency of international trade for businesses of all sizes. The Petitioner cites no evidence to support this claim. The Petitioner further asserts her company will have national

importance by offering customs compliance consulting, customs and trade compliance automation, and training and development programs in trade compliance. The Petitioner cites no evidence to support this claim. The Petitioner's business plan states the company will offer compliance consulting services, trade efficiency solutions, customs brokerage services, training and education programs, risk management solutions, market entry strategy consulting, and advice on trade agreements and tariffs. The record does not indicate that any of these services are unique, innovative, or otherwise have national or even global implications in the Petitioner's field. *See id.* at 889 (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

The Petitioner further asserts her company has national importance because it aligns with U.S. government initiatives recognizing the critical role of small businesses and international trade. The Petitioner cites no evidence to support this claim. The Petitioner submitted articles on U.S. trade policy, business and trade in the national interest, and economy and trade, but none of the articles discuss the Petitioner's proposed endeavor. Our assessment of national importance does not focus on the importance of a field or sector of the U.S. economy in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.*

The Petitioner submitted a letter from Professor J-E-[2] of [redacted] University expressing his opinion that the Petitioner qualifies for a national interest waiver. J-E- states the Petitioner's company has national importance "due to its critical role in enhancing the United States' international trade compliance and efficiency." J-E- asserts the impact of the Petitioner's company will extend beyond individual businesses to enhance the overall competitiveness of the U.S. in the global market, but he states the company will achieve this goal by "helping U.S. companies navigate regulatory complexities and optimize their trade processes." J-E-'s assertions do not demonstrate that the work of the Petitioner's company would extend beyond its clients to impact her field more broadly on at a level indicative of national importance. *See id.* (explaining "we look for broader implications").

J-E- also claims the Petitioner's company will "stimulate broader economic activity" and cause a "ripple effect that benefits industries such as logistics, technology, and manufacturing." J-E- cites no evidence to support this claim. J-E- further asserts the Petitioner's company will broadly enhance societal welfare by enhancing the accessibility and efficiency of international trade for businesses of all sizes. Again, J-E- does not demonstrate how the Petitioner's company's work would extend beyond its clients to impact society in a manner commensurate with national importance. J-E- also claims the Petitioner's company's training programs will contribute to workforce development and social mobility. 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. *Id.* at 893. Here, the record does not demonstrate that the Petitioner's proposed endeavor would sufficiently extend beyond her company's clients and trainees to impact her field more broadly in a manner commensurate with national importance. J-E- further asserts the Petitioner's company has national importance because it aligns with U.S. initiatives focused on economic growth, trade expansion, and workforce development. However, working in areas of national interest does not in and of itself establish the national importance of a proposed endeavor.

[2] We use initials to protect the privacy of the referenced individual.

In sum, the relevant evidence does not establish that the Petitioner's company has significant potential to employ U.S. workers, has other substantial positive economic effects, has national or even global implications within her field, or has other broader implications indicating national importance. Consequently, the Petitioner does not meet the first *Dhanasar* prong.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of her specific proposed endeavor and she does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of her eligibility under the second and third 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

The Petitioner has not established the national importance of her proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, she has not demonstrated that she is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.