U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37172751

Date: MAR. 25, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an information technology (I.T.) sales manager, 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 record did not establish that the Petitioner qualifies for the national interest waiver. 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.

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

Id.

II. ANALYSIS

The Director determined that the Petitioner qualifies for classification as a member of the professions with an advanced degree because his baccalaureate degree and subsequent experience are equivalent to a master's degree under 8 C.F.R. § 204.5(k)(2).

The issue before us is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. The Director determined that the Petitioner had established neither the substantial merit of the proposed endeavor nor its national importance. The Director also concluded that the Petitioner had not met the second and third prongs of the Dhanasar national interest framework.

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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Id.

The first Dhanasar prong, substantial merit and national importance, focuses on the specific endeavor that the individual 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 whether the proposed endeavor has national importance, we consider its potential prospective impact and look for broader implications. Matter of Dhanasar, 26 I&N Dec. at 889.

A. Proposed Endeavor and Substantial Merit

After earning a bachelor's of science degree in informatics in 2008, the Petitioner worked as a sales manager for a technology company from 2008-2010 and then worked at several companies in the retail business (2010-2011), as a territory manager/sales director (2011-2019), a major account executive senior (2019-2022), and currently is a sales manager at a company where she creates and implements a sales strategy focused on prospecting, developing, and closing new business accounts within an assigned territory, among other responsibilities.

[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).

The Petitioner stated that her proposed endeavor as an I.T. sales manager will be crucial in managing sales teams. driving revenue, advancing innovative sales techniques, and helping shape the broader economic narrative. Upon de novo review, we find that the proposed endeavor has substantial merit.

B. National Importance

The Petitioner listed and elaborated on the following national implications for her proposed endeavor:

- Developing American businesses, with a particular focus on their growth within Latin American regions.
- Building and leading sales teams to drive revenue.
- Building C-level client relationships by engaging directly with C-level executives such as the Chief Information Officers, Chief Information Security Officers, and Chief Technology Officers to integrate cybersecurity solutions into the core business strategies of major organizations effectively.
- Strategically managing accounts by setting targets to hit or exceed revenue forecasts.
- Leading merger and acquisitions negotiations.
- Providing training for salespeople interested in the technology field.
- Coordinate sales activities and plan sales and new customer acquisition strategies.

The Petitioner described her track record, her projected accomplishments, and the multiplier effect of her projected gains on the U.S. economy.

In denying the petition, the Director stated that the Petitioner had not shown that her proposed endeavor would have a significant impact beyond the immediate vicinity of the persons or entities utilizing them. On appeal, the Petitioner states that her proposed endeavor has broader implications within her field, impacts a matter that the government has recognized as having national importance, and contributes to the I.T. and cybersecurity industry. She notes that her letters of reference emphasize her skills, experience, and expertise which can contribute to sustaining the United States' competitive edge, profitability, and expand market reach to global markets. We agree with the Director's determination, as explained below.

Initially, the Petitioner provided general information about her background in I.T. sales.[2] She claims to be "poised to c.ontinue her journey as an IT sales manager, with a specific focus on nurturing American businesses' expansion into Latin American markets, particularly by offering cybersecurity solutions." This claim does not show how the Petitioner's proposed endeavor, in particular, would be of national importance. The term "endeavor" is more specific than a general occupation, such as I.T. sales manager; 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. The Petitioner's initial submission stated she intended to work for one or more companies in the I.T. field. Her petition detailed her past accomplishments in sales and speculated projections based on past sales revenues. She stated that she will introduce technology solutions in the market, target various industries, and "expand[] the market scope for the company she will serve."

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

The Director requested additional evidence to show that the benefit from the Petitioner's proposed endeavor would sufficiently extend beyond an organization and its clients. In response, the Petitioner described various broad areas of national concern, such as cybersecurity and economic performance. The issue, however, is the national importance of her specific proposed endeavor, not the collective or aggregate importance of all businesses or the entire I.T. or cybersecurity industry.

The Petitioner did not adequately explain how her specific activities would have national importance. For example, she stated that her proposed endeavor will increase profits, lead to job growth, and generate greater tax revenue. Rather than provide any specific, corroborated figures, she offered speculative projections. A stated intention to work in an important field or industry does not establish the national importance of a proposed endeavor within that field or industry.

The Petitioner's letters of support emphasize her ability to manage complex and high-profile accounts, describer her role in mergers and acquisitions and after-acquisition strategic sales management, assert her multicultural expertise in engaging the Latin American markets and U.S. Hispanic market, and set forth the Petitioner's experience with content delivery networks and related negotiation. However, the Petitioner did not establish the wider significance of this beyond benefit to her employer. By statute, individuals who "will substantially benefit prospectively the national economy" are, nevertheless, subject to the job offer and labor certification requirement. Section 203(b)(2)(A) of the Act. Also, "an individual cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his field of expertise." Matter of Dhanasar, 26 I&N Dec. at 886 n.3.

The Petitioner stated that her proposed endeavor will address national security concerns by promoting cybersecurity solutions in the Latin American markets. However, the Petitioner did not elaborate or explain how her work as a sales manager would have broader implications for cybersecurity.

On appeal, the Petitioner again relies largely on general assertions, stating, for example, that her proposed endeavor has "broader implications than the immediate vicinities of her work." The discussion that follows that claim concerns the importance of I.T. to a variety of businesses, rather than any broader implications of the Petitioner's own proposed endeavor as a sales manager in I.T.

Also on appeal, the Petitioner repeats her intention to drive broader economic growth in the United States through her work with content delivery networks and security technologies. The information cited on appeal establishes the importance of information technology and cybersecurity but does not explain how the Petitioner's proposed endeavor would have a nationally important impact beyond her work as a sales manager for an I.T. company and its clients.

The Petitioner asserts that her proposed endeavor is essential because, with her expertise, she will be able to advocate for companies in technology and cybersecurity fields, spread the relevance of obtaining technology solutions for companies of any field, and promote better management and efficiency for customers who buy the technology she sells. As discussed above, the overall importance of a given industry or field does not suffice, by itself, to show that employment within that industry or field has national importance.

We agree with the Director that the Petitioner has not established her proposed endeavor sufficiently extends beyond the company she works for as a sales manager and its clientele to impact the industry or the field more broadly, at a level commensurate with national importance. The burden of proof remains on the Petitioner to establish eligibility, and her successful employment with a I.T. and cybersecurity companies does not suffice to show that her proposed endeavor has broader implications that indicate national importance. The Petitioner has not overcome the Director's determination in this regard.

Detailed discussion of the remaining prongs cannot change the outcome of this appeal. Therefore, we reserve argument on the other prongs of the Dhanasar national interest framework.[3]

III. CONCLUSION

The Petitioner has not established the national importance of the proposed endeavor. Therefore, the Petitioner has not shown eligibility for the national interest waiver, and we will dismiss the appeal as a matter of discretion.

ORDER: The appeal is dismissed.

[3] See INS v. Bagamasbad, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions 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).