U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37339051

Date: MAR. 28, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a chief financial officer and corporate treasurer in the financial services industry, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 although the Petitioner qualified for classification as a member of the professions holding an advanced degree, she had not established 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 a 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 concluded that the Petitioner qualifies for classification as an EB-2 immigrant as a member of the professions holding an advanced degree.[2] The sole issue to be determined is whether the Petitioner has established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

The Petitioner initially indicated that the intent of her proposed endeavor, "a financial and strategic consulting firm in the United States" was to provide services to client companies such as "financial management consulting" and "training and development of financial talents." With her response to the Director's request for evidence, the Petitioner offered a business plan for the proposed endeavor, [redacted], a company that would be headquartered in [redacted] Ohio. The business plan indicates that [redacted] would offer financial services consulting including "a range of personalized financial services, including personal financial planning, investment management, business consulting, retirement planning, and tax consulting" and identified a primary focus of the proposed endeavor as "understanding the needs of immigrants and offering solutions adapted to diverse economic contexts."

In denying the petition, the Director concluded that the Petitioner had not met the first and third prongs of the *Dhanasar* analytical framework.[3] With regard to the first prong, the Director reviewed and analyzed the Petitioner's national importance claims, including the Petitioner's business plan, employment and revenue projections, and the proposed endeavor's alignment with national initiatives, and discussed their deficiencies.

Upon review, we adopt and affirm the Director's decision as it relates to prong one of the *Dhanasar* analysis regarding substantial merit and national importance. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted this issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight U.S. Court of Appeals in holding the appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

On appeal, relating to the first prong of the *Dhanasar* analytical framework, the Petitioner first provides a general overview of the financial services industry and the important role it plays in the economic framework of the United States. The Petitioner offers previously submitted evidence regarding financial managers and the financial services industry, such as job descriptions and

[2] The Director determined that the Petitioner established her eligibility for EB-2 classification as a member of the professions holding an advanced degree and did not reach the matter of whether she demonstrated her eligibility as an individual of exceptional ability.

[3] The Director concluded that the Petitioner had shown that her proposed endeavor was of substantial merit and that she was well-positioned to advance the proposed endeavor. However, the Director determined that she had not established the national importance of the proposed endeavor as required.

marketing studies. This evidence establishes the importance of the financial services industry. However, in determining national importance, the relevant question 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." *Id.* Accordingly, we agree with the Director that this evidence is insufficient to establish the national importance of the Petitioner's proposed endeavor.

In addition the Petitioner contends on appeal that the proposed endeavor is of national importance as it will contribute to the health of the U.S. economy in multiple ways. She first asserts that the proposed endeavor will foster financial inclusion for underserved communities, helping them to achieve financial stability, participate more fully in the U.S. economy, and generate economic growth through increased savings, investment, and consumption. Next, the Petitioner argues that it will contribute to the diversification and growth of the U.S. economy through its provision of financial services to immigrant entrepreneurs and their businesses. She further contends that the proposed endeavor will drive long-term economic growth because it will work to revitalize the distressed area in which it will be located, making the area better able to attract new investments. The Petitioner also argues that the proposed endeavor will enhance economic resilience by providing its clients with the tools they will need during periods of economic uncertainty, ultimately supporting the stability of the economy.

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. Although the Petitioner's statements reflect her intention to provide valuable financial services to support her clients, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. 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 we agree with the Director that the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond her clientele to impact the financial services industry more broadly at a level commensurate with national importance.

To further demonstrate the national importance of her proposed endeavor on appeal, the Petitioner emphasizes the proposed endeavor's prospective creation of direct and indirect jobs in a distressed economic area. In *Dhanasar*, we concluded 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. Upon review of the record, we also agree with the Director that the Petitioner has not shown how the proposed endeavor's claimed employment projections have significant potential to employ U.S. workers in an economically depressed area or that the proposed endeavor otherwise offers substantial positive economic effects in a manner reflective of its national importance.

On appeal, the Petitioner also asserts that her proposed endeavor is of national importance because it aligns with and supports national initiatives described in several executive orders, such as the January 2021 White House Executive Orders "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government" and "Economic Relief Related to the COVID-19

Pandemic."[4] These executive orders focus respectively on advancing equity across the federal government, creating opportunities for improvement in historically underserved communities, and on the federal government's role in addressing an economic crisis triggered by the COVID-19 pandemic, particularly within communities of color. While these executive orders, and the others that the Petitioner cites to on appeal, indicate an array of topics that are important to and of interest to the U.S. government, their focus is on the U.S. government's role in carrying out the orders; they do not specifically show the government's interest in the Petitioner's proposed endeavor or similar endeavors.

The Petitioner also reiterates that the proposed endeavor supports national economic policies as outlined in the Small Business Jobs Act of 2010, which provides mechanisms for the federal government to increase investment in and otherwise support small businesses to support job creation. This legislation indicates the importance to the federal government of investing in and supporting small businesses to support job creation but, like the executive orders, focuses on the U.S. government's role in doing so; it does not establish the federal government's interest in the proposed endeavor.

In evaluating national importance under the first prong of the *Dhanasar* framework, we will consider evidence demonstrating how a specific proposed endeavor impacts a matter that a government entity has described as having national importance or a matter that is the subject of national initiatives. However, as the Director's decision noted, operating a business in an area that is adjacent to the subject of national initiatives is not sufficient, in and of itself, to establish the national importance of a specific endeavor. The Petitioner must still demonstrate the potential prospective impact of her specific proposed endeavor in that area.

For the foregoing reasons, the Petitioner has not established the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. She therefore has not demonstrated that she is eligible for or otherwise merits a national interest waiver as a matter of discretion. This identified reason for dismissal is dispositive of the Petitioner's appeal, and thus, we decline to reach and hereby reserve remaining arguments concerning her eligibility under the third prong of the *Dhanasar* framework. *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we find that she has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

[4] The Petitioner also asserts that her proposed endeavor aligns with the following executive orders: a December 2018 White House Executive Order "Establishing the White House Opportunity and Revitalization Council," a January 2021 White House Executive Order "Tackling the Climate Crisis at Home and Abroad," a July 2021 White House Executive Order " Promoting Competition in the American Economy," and a December 2021 White House Executive Order "Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government."