U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 30354397

Date: MAY 10, 2024

Appeal of Texas Service Center Decision

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

The Petitioner 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 Petitioner 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. 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.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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. While neither the statute nor the pertinent regulations define the term "national interest," *Matter of Dhanasar*, 26 I&N Dec. 884 (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;

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- The individual is well positioned to advance the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

## II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest. For the reasons discussed below, the Petitioner has not established that a waiver of the requirement of a job offer is warranted.

The Petitioner described her proposed endeavor as working as a CEO and Director of Analytics of her own company and she will lead "digital transformational processes of insurance companies, brokers, and agencies," to "optimize business opportunities and customer management in favor of development and growth of the company, generating business opportunities and developing potential clients in other branches." She indicated she will help small and medium-sized businesses and entrepreneurs to help them succeed and in turn, contribute to the overall employment rate and growth of the American economy.

The Director determined the Petitioner did not demonstrate the proposed endeavor's substantial merit and national importance.[2] On appeal, the Petitioner presents a brief but does not submit new evidence. The Petitioner reiterates previous statements made in the initial petition and in response to the Director's request for evidence. The Petitioner again summarizes her prior employment experience and qualifications, and she asserts that her past contributions and achievements demonstrate that she has made and continues to make contributions of significant impact. The Petitioner reiterates the general consulting services that will be provided by her company, and the importance of consulting services for businesses in the insurance sector that contribute to the growth of the U.S. economy.

### A. Substantial Merit

First, we will address the issue of substantial merit, which may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined that the Petitioner did not explain her endeavor with sufficient detail and was not clear as to whether she will work as a consultant or a lawyer. Despite acknowledging the Petitioner's submission of industry reports and articles, the Director concluded that the Petitioner did not establish that her endeavor has substantial merit. We disagree.

The record contains supporting statements from the Petitioner in which she highlighted her professional qualifications and consistently maintained that her proposed endeavor is to use her extensive experience in the insurance sector, management of personal property and liability insurance, prevention of legal and operational risks, information and data analysis, business plans, financial projections, audits and quality systems to build solid business plans and implement new technologies and automated analytical tools to small and medium sized enterprises from the insurance sector in

[2] The Director also found that the Petitioner did not meet the second and third prongs of *Dhanasar*.

order to modernize processes and services and increase productivity, profitability, and competitiveness. The Petitioner provided articles discussing the value of big data analytics, digital transformation, and the importance of the insurance industry in the United States. We conclude that the record supports the Petitioner's claim that her proposed work as a consultant in the insurance industry has substantial merit, and we therefore withdraw the Director's adverse conclusion on this issue.

B. National Importance

Notwithstanding our favorable determination on the issue of substantial merit, for the reasons to be discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

As noted above, the Petitioner stated that her plans are to serve her client businesses by offering business solutions and develop transformational processes that will improve the client entity's internal control processes, productivity and profitability. On appeal, the Petitioner cited to her personal statement as evidence in support of her contention that she adequately clarified her endeavor and explained the endeavor's national importance.

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." *See Dhanasar*, 26 I&N Dec. at 889. As it relates to the Petitioner's experience and ability claims, those relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. Moreover, the Petitioner must establish the national importance of her business rather than the importance of consulting services, data analytics, small businesses, and entrepreneurism.[3] Further, "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.* The broader implications of the proposed endeavor, national and/or international, can inform us of the proposed endeavor's national importance. That is not to say that the implications are viewed solely through a geographical lens. Broader implications can reach beyond a particular proposed endeavor's geographical locus and focus. The relevant inquiry is whether the broader implications apply beyond just narrowly conferring the proposed endeavor's benefit. And 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.

Moreover, 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. In *Dhanasar*, we determined 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. We recognize the overall value of providing consulting services and running a company; however, the evidence does not sufficiently demonstrate that the Petitioner's specific undertaking stands to have an impact beyond

[3] The Petitioner's contentions and submissions of industry articles and reports relates to the substantial merit of the proposed endeavor rather than the national importance.

the organizations and clients she would serve, or that her proposed work would otherwise have broader implications for the insurance industry or initiatives. For example, the record does not establish the Petitioner has plans to introduce novel methodologies or techniques that may be disseminated to or adopted by others operating in the field or industry. Here, the record does not show through supporting documentation how her specific company that provides consulting services stands to sufficiently extend beyond her prospective clients to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

Additionally, the Petitioner has not presented sufficient evidence showing that her proposed endeavor has "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." See *Matter of Dhanasar*, 26 I&N Dec. at 890. Without evidence regarding any projected U.S. economic impact or job creation directly attributable to her future work operating a consulting business, the record does not show that benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. The Petitioner references the SBA HUBZone program but has not shown that the program confirms the national impact of her proposed endeavor. The SBA program aims to award a certain percentage of federal contract dollars to HUBZone-certified companies.[4] The record does not indicate that the Petitioner's proposed endeavor involves HUBZone-certified companies or has any association to federal contracts. To the extent that she is arguing her proposed endeavor has the potential to positively impact historically underutilized business areas, in part, by preserving or creating jobs, the record does not include sufficient evidence showing any projected U.S. economic impact or job creation directly attributable to her proposed endeavor rises to the level of national importance or will likely impact the insurance field.

On appeal, the Petitioner asserts the Director abused their discretion in failing to address all evidence, citing *Buletini v. INS*, 850 F. Supp. 1222 (E.D. Mich. 1994) in support. The court in *Buletini*, however, did not reject the concept of examining the quality of the evidence presented to determine whether it establishes a petitioner's eligibility, nor does the *Buletini* decision suggest that USCIS abuses its discretion if it does not provide individualized analysis for each piece of evidence. When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the petitioner presents. *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir.1992); see also *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993). We conclude the record reflects the Director's consideration of all evidence in the totality even though the Director did not address each piece of evidence individually.

[4] The Small Business Administration (SBA) website provides: "The HUBZone program fuels small business growth in historically underutilized business zones with a goal of awarding at least 3% of federal contract dollars to HUBZone-certified companies each year." The SBA website further explains that "[j]oining the HUBZone program makes [a] business eligible to compete for the program's set-aside contracts" and that "HUBZone-certified businesses also get a 10% price evaluation preference in full and open contract competitions." https://www.sba.gov/federal-contracting/contracting-assistance-programs/hubzone-program, accessed on May 10, 2024, a copy of the online material has been incorporated into the record of proceedings.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We acknowledge the Petitioner's arguments on appeal as to the second and third prongs of *Dhanasar* but, having found that the evidence does not establish the Petitioner's eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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 the applicant is otherwise ineligible).

## III. CONCLUSION

The Petitioner has not established the national importance of her 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.