U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31108846

Date: MAY 17, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an accountant, 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). 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 Petitioner did not establish that she is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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 for the underlying classification, the petitioner must then establish eligibility for 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 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. at 889.

II. ANALYSIS

The Director's decision did not state whether the Petitioner established her eligibility for the underlying EB-2 classification. In a request for evidence, the Director indicated that the Petitioner qualifies for the EB-2 classification as a member of the professions holding an advanced degree.[2] We agree that the record supports that determination.

The issue on appeal is whether the Petitioner 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 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 determined that the Petitioner did not establish that she is well positioned to advance the proposed endeavor under *Dhanasar's* second prong, or that, on balance, it would 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. 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.[3]

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." Id.

The Petitioner proposes to establish a financial services consulting business in Florida for which she would be its chief executive officer and a financial consultant. The Petitioner's statement indicates that her business would provide financial advice to small and medium-sized enterprises (SMEs) to help improve their productivity and growth. Her business intends to provide "cost-effective and

[1] 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).

[2] To demonstrate she is an advanced degree professional, the Petitioner submitted her diploma, her academic transcript, an academic evaluation, and employment verification letters. The record demonstrates that she holds the foreign equivalent of a U.S. bachelor's degree followed by more than five years of progressive experience in her specialty. See 8 C.F.R. § 204.5(k)(3).

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

customized solutions" focused on the long-term sustainability of SMEs by improving their business costs, tax planning, international growth, organizational structure, and digital marketing strategies. In addition to advising SMEs, the business would provide financial education to vulnerable minority communities, specifically Latin America immigrants. The trainings would focus on resource and expense management; creation of product and service ventures; financial strategies for entrepreneurs; investment diversification and improvement; debt reduction; and savings plans for retirement, home and vehicle purchases, and children's education. 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 determined that the Petitioner did not establish that her proposed endeavor is of national importance. The Director found that the Petitioner did not demonstrate her proposed endeavor would extend beyond her business and clients to have a potential prospective impact on her field more broadly. The Director further determined that the Petitioner did not show how her work in the financial field has "significant potential to employ U.S. workers or otherwise offers substantial positive economic effects" to the national or regional economy as contemplated by Dhanasar.

On appeal, the Petitioner argues that the Director's decision "contains instances of a misunderstanding and misapplication of law that go beyond harmless error . . . ." She contends the decision is flawed because it did not fully examine and consider the totality of the evidence submitted with her initial petition and with her RFE response which amount to an abuse of discretion, citing Buletini v. INS, 860 F. Supp. 1222 (E.D. Mich. 1994). She claims that the Director's decision erroneously states that no evidence was submitted to show her endeavor is of national importance when she did submit documentary evidence to prove this element of the petition. She stresses having submitted "no less than 12 pieces of objective, documentary evidence with the initial filing" to show her work would assist SMEs' administrative and financial consolidation, thereby enhancing U.S. corporate and personal finances. Also, she points out that her RFE response included an "additional 17 pieces of objective evidence from reputable [U.S.] government and private sector sources" showing the national implications of her endeavor to her industry by optimizing SME financial management and providing guidelines to improve personal financial literacy of immigrant communities.

To determine whether a petitioner has met their burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. See Matter of Chawathe, 25 I&N Dec. at 376.; see also Matter of E-M-, 20 I&N Dec. 77, 79- 80 (Comm'r 1989). Here, we disagree with the Petitioner's assessment of the Director's decision. Contrary to the Petitioner's claims, the Director did not state that the Petitioner submitted no evidence to show her proposed endeavor is of national importance. Instead, the Director acknowledged and analyzed various documents, specifically her statements, articles, and recommendation letters, but determined overall that the quality of the evidence lacked probative value in supporting her claim that the proposed endeavor is of national importance.

Moreover, the court in Buletini 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 that although the decision does not individually analyze each piece of evidence, it reflects the Director's reasoned consideration of the evidence.

On appeal, the Petitioner contends that the Director imposed novel criterion outside the precedent Dhanasar decision by overemphasizing the geographical scale of the economic benefits of her endeavor. She claims that in assessing whether a proposed endeavor is of national importance, Dhanasar's analytical framework avoids overemphasizing its geographical "national scope". However, the Petitioner has not pointed to specific instances where the Director overly emphasized such geographical scale. Here, the Director evaluated the evidence to determine whether it supported her claims that her endeavor has the potential to advance the nation's economic interests. The Director properly evaluated the endeavor's potential to employ U.S. workers or for other substantial positive economic effects to the nation or to the region of her business, as contemplated by Dhanasar. See Matter of Dhanasar, 26 I&N Dec. at 889-90.

The Petitioner further argues that her professional business plan "clearly explains the economic implications of her proposal" by "creating novel and dynamic approaches to financial management for improving business efficiency." In addition, her business will "develop tools for individuals within immigrant communities to help them improve their spending habits and financial literacy." She points out that her work is key for reducing financial mismanagement in businesses and reducing financial inequality in immigrant communities. By working with other experienced professionals and educational centers in the industry, the Petitioner will share knowledge and expertise to create more comprehensive and effective solutions to ineffective financial management, both for individuals and businesses, across the nation." To improve financial efficiencies of Florida businesses, her business would analyze the client company's last three years of financial statements to develop a restructured tax plan to optimize their business finances. She further claims that her business would create jobs, intending to hire eight to ten employees specializing in areas such as tax, finance, international business, and life insurance.

In addition to evaluating the endeavor's broad impact to the field, we noted in Dhanasar 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. Any basic economic activity has the potential to positively impact the economy; however, the Petitioner has not offered a sufficiently direct connection between her proposed endeavor's activities to provide financial advisor consulting to businesses and immigrant communities that would potentially have a demonstratable substantial economic benefit to Florida or the nation. Although the Petitioner indicated that her consulting work will create economic benefits for her business' clients and employ approximately eight to ten employees, she has not provided objective and corroborating details as to how such projections are created, aside from generalized claims and statements. The Petitioner must support her assertions with relevant, probative, and credible evidence. See Matter of Chawathe, 25 I&N Dec. at 376.

The Petitioner also claims that the Director ignored evidence that shows her endeavor impacts matters that the government has described as having national importance or is the subject of national

initiatives. To support her claim, the Petitioner argues that she submitted articles, industry reports, and U.S. government source materials which are "objective and probatory evidence" demonstrating the national impact of her endeavor. She claims the industry articles and U.S. government reports show the importance of financially strong SMEs and of financial literacy education, specifically pointing out U.S. government initiatives aimed at promoting small businesses, entrepreneurs, and financial literacy education. The record includes reports and articles relating to the economic importance of SMEs; a 2021 profile of small businesses in the United States; mentoring programs and policies supporting small businesses; U.S. government support of small businesses post-COVID-19 through increased lending; guidelines for the U.S. Small Business Administration; a report from the Florida Chamber Foundation; the increase in job openings in the United States; use of accounting to manage finances; financial managers; national strategies for financial education; and the benefits of financial education of vulnerable populations.

The importance of the U.S. government initiatives is not in dispute, but their overall significance does not establish the national importance of the Petitioner's proposed endeavor in particular. Support of SMEs and the financial literacy of individuals are important to the U.S. economy, but it does not follow that an individual providing financial consulting advice to SME clients and immigrant individuals has national importance. Working in or establishing a business in an important field is insufficient on its own to establish the national importance of the proposed endeavor. Instead, we focus on the "the specific endeavor that the foreign national proposes to undertake" and consider the endeavor's "potential prospective impact." See Matter of Dhanasar, 26 I&N Dec. at 889. The Petitioner does not quantify the proposed endeavor's expected impact in the identified areas of concern, or provide objective, probative evidence to support her contentions. Although the Petitioner has shown that supporting SMEs and minority populations are nationally important issues, she has not demonstrated the potential prospective impact of her specific endeavor to such nationally important matters.

Lastly, the Petitioner has not shown that her proposed endeavor has broader implications, either economically or from innovations that advance her field that would sufficiently extend beyond her financial services consulting work and her clients at a level commensurate with national importance. The Petitioner's statement indicates her business will provide "cost-effective and customized solutions to organizations." But the Petitioner has not suggested or shown that her solutions or methodologies somehow differ from or improve upon those already available and in use in the United States, as contemplated by Dhanasar. Id. (observing that "[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"). The Petitioner must support her assertions with relevant, probative, and credible evidence. See Matter of Chawathe, 25 I&N Dec. at 376. Outside of the Petitioner's general claims in her statements, the record does not suggest that the Petitioner serving as the chief executive officer and financial advisor for her financial advisory consulting business would impact the financial advisory services field more broadly. The economic and social benefits that the Petitioner claims depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between her proposed financial services consulting work and the claimed results.

The Petitioner has not sufficiently established the national importance of her proposed endeavor as required by the first prong of the Dhanasar precedent decision, and therefore she has not demonstrated eligibility for a national interest waiver. Because the identified basis for denial is dispositive of the

Petitioner's appeal, we decline to reach and hereby reserve her appellate arguments regarding her eligibility under the second and third prongs. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (noting 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

As the Petitioner has not established eligibility under the requisite first prong of the Dhanasar analytical framework, she is not eligible 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.