U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34814977

Date: NOV. 19, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an international banking 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 does not establish that the Petitioner is eligible for a national interest waiver as a matter of discretion. 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. 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. 8 C.F.R. § 204.5(k)(2).

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*, provides the framework for adjudicating national interest waiver petitions. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). *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.

Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Petitioner is an international banking manager whose proposed endeavor is to work in this field in the United States. The Director determined that the Petitioner established her eligibility for the EB-2 classification as a member of the professions holding an advanced degree.[2] However, the Director concluded that the Petitioner did not establish eligibility for a national interest waiver as the record did not establish her proposed endeavor's national importance and did not establish that, on balance, it would be beneficial to the United States to waive the job offer requirement. On appeal, the Petitioner contends that the Director erred in this finding. We conclude the record does not establish the Petitioner's proposed endeavor is of national importance and therefore she is not eligible for a national interest waiver as a matter of discretion.

The first 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. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner's proposed endeavor is to continue working as an international banking manager in the United States; specifically, to assist with expansion efforts in the African region. The record includes industry reports and articles on the importance of international banking and its impact on the global economy. We conclude that the Petitioner's proposed endeavor has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id. Dhanasar* states a proposed endeavor may have national importance because it has, "national or even global implications within a particular field, such as certain improved manufacturing processes or medical advances." *Id.* The Petitioner states on appeal that the Director erred as they "failed to properly weigh the evidence submitted." The Petitioner contends, "[t]he evidence submitted demonstrates [the Petitioner's] qualifications, the significance of her role in the international banking sector, and the broader implications of her work for the U.S. economy." In determining national importance, the relevant question is not the importance of the field, industry, or

[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).

[2] The Director concluded that the Petitioner qualifies for the EB-2 classification as a member of the professions holding an advanced degree based on documentation of a foreign bachelor's degree and five years of progressive experience. However, as the record does not establish by a preponderance of the evidence that the Petitioner is otherwise eligible for a national interest waiver as a matter of discretion, we will reserve the issue of the Petitioner's eligibility for the EB-2 classification. *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 alternate issues on appeal where an applicant is otherwise ineligible).

profession in which the individual will work; instead, we focus on, "the specific endeavor that the foreign national proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889.

The Petitioner highlights the general duties of an international banker but does not detail the prospective impact of the Petitioner's specific proposed endeavor, other to say she will be working in that field. The record contains industry reports and articles which describe the importance of the international banking industry and "federal and state policies articulating the prospective national importance of her proposed endeavor." While we recognize the value and importance of the industry, working in the industry is insufficient to establish the national importance of the proposed endeavor. Here, the Petitioner improperly relies upon the importance of the industry to establish the national importance of her proposed endeavor. For example, the Petitioner submitted various articles on the importance of international banking to the economy such as, "U.S. Report on Global Financial Services Leadership" and "The Importance of Global Bank Accounts for International Businesses." While this provides good background information and information on the importance of the industry; without sufficient documentary evidence of the specific proposed endeavor's broader impact on the industry, the Petitioner's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

In addition, the Petitioner included information on her extensive experience in the field, such as her resume and various recommendation letters; along with evidence that she has applied for international banking manager positions in the United States. The appeal states that this evidence shows she has the skills to carry out her proposed endeavor and that the applications show her commitment to working in the field. While we acknowledge her extensive experience and that she has taken steps to work in the United States in this field, this does not further show the national importance of her proposed endeavor as these documents relate to the second prong of the *Dhanasar* framework, where we shift the focus from the proposed endeavor to the individual. *Id.* at 890. While these letters show the experience the Petitioner has thus far in her career and her prospective intention to work in the field in the United States, the Petitioner has not submitted sufficient evidence to establish the prospective impact of her future proposed endeavor.

While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See Bagamasbad*, 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7.

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.