U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39420537

Date: OCT. 07, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, an accountant, seeks second preference immigrant classification (EB-2) 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 EB-2 immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner meets the qualification for the underlying EB-2 visa classification. 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 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.

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. "Profession" is defined as of the occupations listed in section 101(a)(32) of the Act, 8 U.S.C. § 1101(a)(32),[1] as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation. 8 C.F.R. § 204.5(k)(2).

If a petitioner demonstrates EB-2 eligibility, 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. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating

[1] The listed occupations are architects, engineers, lawyers, physicians, surgeons, and teachers at certain institutions.

national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[2] 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

A. EB-2 Classification

The Petitioner filed the instant petition on March 29, 2024. SCOPS denied the petition, concluding that the Petitioner did not meet the EB-2 classification as a member of the professions holding an advanced degree because her "total time of progressive post-baccalaureate experience is four years and nine months." On appeal, the Petitioner contends that SCOPS "failed to properly evaluate the date of graduation" and incorrectly discounted her progressive post-baccalaureate experience. The Petitioner claims that she has at least five years of progressive post-baccalaureate experience, consisting of one year and seven months of employment at [redacted] in Venezuela; three years and two months of employment at [redacted] in Uruguay; and one year and seven months of employment at [redacted] in the United States, totaling six years and four months.

We acknowledge that SCOPS erroneously stated that the Petitioner earned her degree "in June 2017" and withdraw this determination from SCOPS. The Petitioner provided her diploma, transcripts, and academic credential evaluation showing that she obtained the foreign equivalent of a U.S. bachelor's degree in accounting from [redacted] in September 2016.

However, we still conclude that the Petitioner has not sufficiently demonstrated that she has at least five years of progressive post-baccalaureate experience in her specialty for the following reasons.

First, the Petitioner has not adequately documented that her position at [redacted] as "Fuel Analyst and Fuel Coordinator" is in the specialty area of accounting. 8 C.F.R. § 204.5(k)(3)(i)(B). Although the Petitioner has submitted several letters from [redacted] these letters do not show the necessary elements of her employment per 8 C.F.R. § 204.5(g) (providing that the initial evidence of qualifying experience or training should be in the form of letters from current or former employers and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien or of the training received).

The letter from [redacted] human resources manager indicates that the Petitioner was employed "over the period of 1 year and 7 months and 6 days (19/09/2016-25/04/2018) in the position of: Fuel Analyst

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

and Fuel Coordinator." Although the letter describes the Petitioner as "a valuable member of our Team," it does not provide any details regarding her employment, such as the full-time status of her position or duties performed in this position.

The initial filing also included an untranslated letter from [redacted] "Director de Soporte Integral," but we are unable to consider the evidence's relevance and reliability as this letter was not accompanied by a certified English translation. *See* 8 C.F.R. § 103.2(b)(3) (providing that any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English).

In addition, the Petitioner submitted another letter from [redacted] director of integral support, stating that she worked "from September 19, 2016, to April 25, 2018, as a full-time employee in the Department of Suppliers." However, this letter still does not provide details regarding the Petitioner's duties and responsibilities, but simply praises her for being "a kind, respectful, reliable person" and demonstrating "experience, organization, and control and order in the tasks of the position she held." Based on the evidence presented, the Petitioner has not demonstrated that her experience as "Fuel Analyst and Fule Coordinator" is in her specialty of accounting and counts towards the post-baccalaureate experience of five years.

Second, the Petitioner has not shown that her position as "Inventory Supervisor" at [redacted] held from August 2022 to October 2023, is in the specialty area of accounting. 8 C.F.R. § 204.5(k)(3)(i)(B). The initial letter from [redacted] dated February 26, 2024, explains that she was "hired as an Inventory Supervisor" on August 22, 2022, and "was promoted" as a "Corporate Accountant" on October 23, 2023. The letter describes the Petitioner's responsibilities as the corporate accountant but does not provide any details regarding her role as the inventory supervisor or state whether the employment was full-time. In response to the request for evidence (RFE), the Petitioner submitted a new letter from [redacted] indicating that she is a full-time employee and "is currently in the role of Corporate Accountant" with a list of duties that she performs. But the new letter still does not contain any information about her position as an inventory supervisor between August 2022 to October 2023, how this position is in her specialty, and whether this was a full-time position.

The Petitioner's assertions regarding the nature of her employment are not supported by the record. In her personal statement, the Petitioner stated that "I hold over 7 years of experience in the field of accounting" and in her RFE response, she claimed "eight years of experience in accounting, tax compliance, and financial automation across multiple industries and countries." On appeal, the Petitioner claims that she has a total of six years and four months of the requisite experience. However, the employment letters do not sufficiently verify that all of her experiences have been in her specialty, or in the accounting field. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Therefore, the Petitioner has not established that she has a minimum of five years of progressive post-baccalaureate experience in the specialty, and that she qualifies as a member of the professions holding an advanced degree. In addition, the Petitioner did not submit any claims or documents qualifying herself as an individual of exceptional ability. As such, the Petitioner has not demonstrated her eligibility for the underlying EB-2 classification.

B. National Interest Waiver

As the Petitioner has not met the eligibility requirements for the underlying EB-2 visa classification, she has not shown her eligibility for a national interest waiver of that classification's job offer requirement. Nevertheless, we will review her proposed endeavor under the first prong of the *Dhanasar*'s analytical framework.

The Petitioner's proposed endeavor is to work as an accountant in the United States. With the initial filing, the Petitioner stated that her proposed endeavor "involves continuing my work in the United States as an Accountant, as I am doing through my current employment at [redacted]." In her RFE response, the Petitioner submitted a new personal statement stating that she plans to provide accounting services and solutions to "a broader range of clients, particularly small and medium-sized enterprises and Latino-owned businesses," along with a business plan for her company, [redacted], LLC. The business plan explains that the Petitioner will offer "a wide range of services, including business creation, accounting, financial management, and tax services, to ensure that clients receive expert support throughout their entire business journey." The Petitioner also claimed that she has initiated the business formation process by securing the business name reservation with the Texas Secretary of State, and that she will personally invest a total of $50,000 in the company.

The first prong of the *Dhanasar* framework, 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. *Dhanasar*, 26 I&N Dec. at 889.

Based upon the evidence concerning the accounting profession and the importance of small businesses to the U.S. economy, both of which are directly tied to the Petitioner's proposed endeavor, the Petitioner's plan to offer accounting consulting services for small businesses is of substantial merit. However, we conclude that the Petitioner has not demonstrated her proposed endeavor's national importance. Although in response to the RFE, the Petitioner submitted various reports and articles showing a labor shortage in the accounting field and the importance of accountants, as well as her business plan, recommendation letters, and an expert opinion, the evidence does not sufficiently establish that her proposed consultancy business would have broader implications on the field of accounting, or that it would have a potential prospective impact on the national economy.

Merely working in an important field is insufficient to establish the national importance of the proposed endeavor; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* Here, the Petitioner's discussion of her proposed activities entails typical work of an accountant, and the evidence as submitted does not demonstrate that her accounting techniques demonstrate advancement or innovation in such a way that it has national or even global implications within the field of accounting. In *Dhanasar*, "[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." *Id.* While individual employer or client may benefit from her accounting services, the Petitioner has not offered any evidence or persuasive explanation for how this individual benefit rises to the level of national importance or will impact the field more broadly.

We also evaluated the Petitioner's business plan but conclude that the plan does not demonstrate "significant potential to employ U.S. workers or has other substantial positive economic effects" for any region or the nation. *Id.* at 890. While the business plan projects total sales of $1,263,000 and hiring of eleven employees by the end of the business' fifth year, the plan lacks sufficient analysis and the basis for these projections. Further, the Petitioner has not established that even if the projections were well supported, this level of activity would be sufficient to show a substantial positive economic effect.

In *Dhanasar*, we gave significant weight to "probative expert letters from individuals holding senior positions in academia, government, and industry that describe the importance of hypersonic propulsion research as it relates to U.S. strategic interests" and "detailed expert letters describing U.S. Government interest" in Dr. Dhanasar's specific research. *Id.* at 892. Here, the Petitioner has not provided similar evidence, such as the type of expert opinion evidence or letters from government entities detailing how her specific endeavor impacts a matter that is a subject of national initiatives or discussing the government's interest in promoting the use of the Petitioner's innovation or solutions.

Although an expert letter is provided, the letter reiterates the Petitioner's educational and employment background and opines on the importance of the profession and the field without offering persuasive details concerning the Petitioner's endeavor or its impact extending beyond clients that she will serve. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

In addition, we are not persuaded by the Petitioner's claim that her proposed endeavor has national importance due to the shortage of professionals in her industry, as there is no indication that her proposed endeavor stands to impact or significantly reduce the claimed national shortage. Further, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

For these reasons, we conclude that the Petitioner has not shown that her proposed endeavor is of national interest, and she therefore has not met the first prong of the *Dhanasar* analytical framework. Since the identified bases for denial are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion on the *Dhanasar*'s second and third 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 an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not demonstrated her eligibility for the underlying EB-2 visa classification, nor has she met the requisite first prong under the *Dhanasar* analytical framework. Therefore, we find that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.