U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33461632

Date: SEP. 19, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, an entrepreneur, 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. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Director of the Nebraska Service Center denied the petition, concluding the Petitioner did not establish eligibility for a national interest waiver. 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 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. While neither the statute nor the pertinent regulations define the term "national interest," 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 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v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- On balance, waiving the job offer requirement would benefit the United States.

Id. at 889.

II. ANALYSIS

A. Substantial Merit and National Importance

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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Id. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer. See generally 6 USCIS Policy Manual F.5(D)(1), https://www.uscis.gov/policy-manual.

The Director determined that while the Petitioner established that the proposed endeavor has substantial merit, she did not establish that the proposed endeavor is of national importance as set forth under the first prong of the Dhanasar analytical framework. We agree, for the reasons explained below.

The Petitioner asserts that her proposed endeavor is to develop "a financial and pricing consulting services firm that provides business and financial structuring of start-ups and SMES, financial management of SMES[2] and pricing/revenue analysis of company product portfolio planned to be headquartered in Utah with two business units in Nevada and Arizona." She further asserts that she will establish her firm in SBA HUBZone areas to "help fuel small business growth in historically underutilized business zones," thereby "generating jobs for U.S. workers in these underutilized areas, improving the wages and working conditions for the U.S. workers, helping the local community bring investments to the region and economic development." The Petitioner's business plan states that the firm's projected total wage payment is $3.24 million within the first five years with the creation of 26 direct jobs, "potentially boosting local businesses, increasing consumer spending, and enhancing the overall economic vitality of these states." She states that her "deep financial and pricing consulting expertise is expected to bring innovative practices and cutting-edge methodologies to the sector;" "elevate the standards within the industry but also provide clients with more efficient and effective financial strategies;" and potentially "transform practices within the field, setting new benchmarks for quality and efficiency."

On appeal, the Petitioner asserts that the Director "did not give due regard to the following pieces of evidence: [her] resume, which outlines her vast experience in the field of endeavor; [her] Business Plan, which extensively describes her credentials, expertise, and professional accomplishments, and

[2] "SME" is a common acronym in the business world, referring to small and medium enterprises that maintain revenues, assets, or a number of employees below a certain threshold.

allows concrete projections of the benefits she may offer to the U.S.; [e]vidence of [her] work in the field, which demonstrates her vast contributions in her field; [l]etters of recommendation; and [i]ndustry reports and articles, demonstrating the national importance of [her] proposed endeavor; as well as the steep shortage in the U.S. of professionals with her profile in the field." She further asserts that "the benefit generated to the United States from [her] prospective contributions to financial consulting will be concrete and substantial, even if other U.S. workers are available."

Here, the record does not show the prospective impact of the Petitioner's specific proposed endeavor beyond her own clients for which she would provide her services. While the Petitioner asserts that her endeavor will not only increase her clients' profitability but also has the "potential to create substantial economic impact through direct and indirect job creation, particularly in economically underdeveloped or recovering regions," she has not demonstrated how her specific consulting business would help enough clients increase profitability or create enough jobs to exert a national economic impact. Although the Petitioner's business plan projects that her firm will generate $3.24 million in revenue and create 26 jobs during the first five years – these projections do not indicate that the business would affect the economy at a regionally or nationally important level. Further, her business plan does not demonstrate how her business would benefit an economically depressed area or how the benefits to the regional or national economy resulting from her endeavor would reach the level of "substantial positive economic effects" contemplated by Dhanasar. Id. at 890. In addition, while the Petitioner claims that her firm will elevate the standards within the industry and potentially transform practices within the field, she has not established this claim through independent and objective evidence. Generalized conclusory statements that do not identify a specific impact to the field have little probative value,[3] and here, the Petitioner has not shown with sufficient evidence how her proposed endeavor stands to sufficiently extend beyond her potential clients or the industry or fields that her clients are involved in.

In the present case, the Petitioner has not provided corroborating evidence, aside from claims in her statements and business plan, that her business's activities stand to provide substantial economic benefits to the region of Utah/Nevada/Arizona or the United States. Thus, while the Petitioner's financial and pricing consulting services may "contribute" to economic growth, she has not demonstrated that her specific business – alone – would have national implications for the U.S. economy, the Utah/Nevada/Arizona region, or the financial consulting field. We recognize the importance of the accounting and financial services industry and of small businesses to the U.S. economy; however, the economic benefits that the Petitioner claims will result from her endeavor depend on numerous factors and the Petitioner does not offer a sufficiently direct evidentiary tie between her proposed business's financial services work and the claimed economic results.

As the Petitioner has not met the requisite first prong of the Dhanasar analytical framework, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under Dhanasar's second and third prongs. See INS v Bagamasbad, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they

[3] *See e.g., 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).

reached"); 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).

ORDER: The appeal is dismissed.