



**U.S. Citizenship
and Immigration
Services**

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 31461448

Date: JULY 11, 2024

Appeal of Texas Service Center Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or an individual of exceptional ability in the sciences, arts, or business, 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). She is an accountant with expertise in International Financial Reporting Standards (IFRS) whose proposed endeavor is to be a consultant for small and medium-sized enterprises (SMEs) “to guide them to achieve the benefits they would find using [IFRS]...”

The Director of the Texas Service Center denied the petition, concluding that despite qualifying for the underlying EB-2 visa classification as an advanced degree professional,¹ the Petitioner did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

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).

I. LAW

If a petitioner demonstrates eligibility for the underlying EB-2 classification, 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, 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, grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

¹ The record contains a degree certificate and corresponding transcript showing that the Petitioner completed required coursework and was awarded a bachelor’s degree in accounting in 2009. The record also contains evidence showing that the Petitioner attained at least five years of progressive experience in her specialty. See 8 C.F.R. § 204.5(k)(2).

- 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

Applying the three-prong analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), the Director reached only the first prong, concluding that the Petitioner did not establish that her endeavor has national importance.² As the Director's finding that the Petitioner did not meet the first prong of the *Dhanasar* framework was dispositive, the Director did not address prong two, whether the petitioner demonstrated that she is well-positioned to advance the endeavor, or prong three, whether the petitioner showed that, on balance, waiving the job offer requirement would benefit the United States. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

Upon de novo review, we will dismiss the appeal because the Petitioner did not establish that her specific proposed endeavor has national importance and thus, she did not meet the national importance requirement of the first prong of the *Dhanasar* framework.

We adopt and affirm the Director's analysis and decision regarding the national importance of the Petitioner's endeavor. See *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); see also *Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

In denying the petition, the Director acknowledged that the Petitioner's endeavor is to help SMEs to generate resources from the diagnosis, preparation, implementation, and training of personnel in IFRS. The Director determined, however, that the Petitioner did not provide sufficient evidence to show that her endeavor would broadly impact her field or that it has significant potential to employ U.S. workers or otherwise benefit the U.S. regional or national economy. The Director concluded that the record lacked evidence showing that the benefits from the Petitioner's endeavor would result in "substantial positive economic effects" as contemplated in *Matter of Dhanasar*, 26 I&N Dec. at 890.

On appeal, the Petitioner argues that she plans to "to hire specialized personnel who provide continuous advice on interpreting IFRS. This team will help SMEs stay current and address specific challenges in applying the standards, ultimately aiming to strengthen their competitiveness, attract investors, and access financing opportunities."³ She claims that empowering American SMEs "to successfully navigate international financial standards with the expertise of an IFRS professional...fosters global competitiveness, builds investor confidence, and facilitates strategic growth for these businesses." The Petitioner contends that her endeavor will also align with the Biden administration's commitment to economic recovery from the Covid-19 crisis by supporting small

² The Director determined that the Petitioner's endeavor was shown to have substantial merit.

³ While our decision may not reference every document the Petitioner submitted, we have reviewed each one.

businesses, “aligning with efforts to enhance access to capital and navigate the evolving economic landscape.” Although the Petitioner states that the articles and industry reports she submitted support the broader implications of her proposed endeavor, we disagree, given that the articles and industry reports do not mention the Petitioner’s specific endeavor or discuss its specific implications, but rather broadly address topics that are loosely related to the endeavor, such as planning for the adoption of IFRS for accounting.

The Petitioner also contends that she will hire staff as her business grows. However, she does not offer evidence, such as empirical data quantifying what her business’s labor growth will be, nor does she provide calculations of her endeavor’s projected economic impact. Therefore, the Petitioner has not provided sufficient supporting evidence to establish that she would operate on a large enough scale as to rise to the level of national importance. Nor has she established that the impact of her anticipated endeavor in terms of labor and income will result in “substantial positive economic effects” as contemplated in *Matter of Dhanasar*, 26 I&N Dec. at 890.

And while the Petitioner contends that she has submitted documentation to establish the national importance of her endeavor, the only evidence she specifically discusses is the previously submitted articles and industry reports, which, for the reasons discussed above, we find insufficient to support the Petitioner’s claim. Although the Petitioner has described the proposed endeavor, it is unclear how her personal statements serve as evidence of the endeavor’s national importance.

Further, while the Petitioner claims she will pursue her work as an accounting consultant, the record does not adequately show through supporting documentation how the Petitioner’s services and improvements stand 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. The Petitioner must support her assertions with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. at 376. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to her future work, 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.

Lastly, while the Petitioner points to previously submitted supporting letters, we disagree with her reliance on the letters as evidence of her endeavor’s national importance. Despite any discussion of the Petitioner’s professional achievements in the support letters, we note that the Petitioner’s skills and achievements are factors to be considered under *Dhanasar*’s second prong, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* Evidence of the Petitioner’s prior success as an accountant, while potentially useful in determining whether she is well-positioned to advance the proposed endeavor, do not demonstrate the endeavor’s national importance.

III. CONCLUSION

In sum, the Petitioner has not provided evidence that her endeavor meets the national importance element of the first prong of the analytical framework in *Matter of Dhanasar*. Because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the remaining *Dhanasar* prongs. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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). As such, the Petitioner has not overcome the Director's conclusion regarding this issue. The petition will remain denied.

ORDER: The appeal is dismissed.