U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34432525

Date: APR. 2, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, an athlete and athletic trainer, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability, 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 Nebraska Service Center denied the petition, concluding that although the Petitioner is an individual of exceptional ability, he did not establish a waiver of the required job offer, and thus of the labor certification, would be in the national interest. 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. 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." *Id.*

Matter of Dhanasar, 26 I&N Dec. 884 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as a 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 Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals 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

The Petitioner filed this petition on September 25, 2020. After analyzing the initial evidence, the Director issued two requests for evidence (RFE), noting the deficiencies in the record, to which the Petitioner timely responded. The Director denied the petition, concluding that although the Petitioner is eligible for EB-2 classification as an individual of exceptional ability, he did not establish that a waiver of the job offer, and labor certification requirement, is in the national interest because he did not meet any of the three *Dhanasar* prongs.

Because a petitioner must establish that they meet all three prongs of the *Dhanasar* framework to obtain a national interest waiver, if even one of the prongs is not established, a petitioner is ineligible for this waiver. Accordingly, we will analyze the Petitioner's evidence under prong one and, as explained below, because he has not established his eligibility under that prong, we decline to reach and hereby reserve the Petitioner's arguments regarding the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake and its "potential prospective impact." *Dhanasar*, 26 I&N Dec. at 889. An endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. 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. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual. 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. *Id.* As such, we will first identify the Petitioner's endeavor as shown in the record. Then, we will evaluate the Petitioner's evidence in support of the endeavor's substantial merit and national importance.

On the Form I-140, the Petitioner listed his endeavor as "athlete" and in response to the Director's RFE, the Petitioner provided a business plan and incorporation documents related to a jiu jitsu business (the Company), which he established in 2019 in New York. The Petitioner serves as President of the Company. As described in his business plan, the Petitioner's proposed endeavor is to operate as an "[mixed martial arts] MMA athlete and trainer." The Petitioner describes some of his main goals as:

- Become a member of the U.S. MMA federations including the World Martial Arts Federation, the North American Grappling Association (NAGA), and the International Sport Karate Association

- Promote MMA throughout the United States by collaborating with the Uzbekistan MMA Association and the All-American SAMBO Federation, with particular focus on attracting children to the sport in an effort to improve their health and well-being
- Provide master classes in collaboration with the All-American SAMBO Federation in order to help U.S. athletes advance their careers in MMA
- Use the Company to host MMA championships such as the American Combat Jiu Jitsu Championship and the American Unifight Championship
- Train to participate in competitions in the United States such as the Combat Sambo, the NAGA Championships, and "various jiu jitsu championships" with the goal of becoming a champion MMA fighter in the United States
- Collaborate with "American MMA and jiu jitsu athletes, coaches and members of different sport federations and associations"

As the endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, health, or education, we agree with the Director that the proposed endeavor has substantial merit. *Id.* However, as discussed below, the Petitioner has not established that his proposed endeavor is of national importance.

The Director concluded the evidence was insufficient to establish the Petitioner's endeavor was of national importance under the first *Dhanasar* prong. In their determination, the Director pointed out that the letter of support from Professor [redacted] from [redacted] in New York, lacked probative value because it largely repeated the same language and claims found in counsel's letter. We agree. USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* USCIS is ultimately responsible for making the final determination regarding an alien's eligibility and the submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id., see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value).

On appeal, the Petitioner reasserts the same claims regarding his endeavor's national importance. He explains that his endeavor will provide substantial positive economic effects because he will reduce healthcare costs by improving the health of the athletes he trains, which will render them more productive due to a reduction in obesity, heart disease, diabetes, cancer, and cognitive function. In addition, the Petitioner asserts public funds that would generally cover healthcare costs for sick individuals, would no longer be needed, and could be reinvested into other areas of public concern. The Petitioner claims that his endeavor promotes social and cultural cohesion, and instills values, like respect, perseverance, humility and discipline, that will benefit society. The Petitioner further claims his endeavor is national in scope because through his training programs, he will elevate the standards of martial arts in the United States by imparting advanced techniques and methods to athletes. Finally, the Petitioner asserts his endeavor aligns with a federal committee that aims to promote healthy eating and physical activity, and with our national security strategy to protect our homeland because he will improve the general health of the population.

We acknowledge the Petitioner's assertions; however, the assertions are insufficient to establish the national importance of the proposed endeavor. *See Matter of Chawathe*, 25 I&N Dec. at 375 (standing for the proposition that to determine whether a petitioner has met their burden under the preponderance standard, we consider the quality, relevance, probative value, and credibility of the evidence). In *Dhanasar*, we explained that while the field of STEM education may be of national importance, the duties of a STEM teacher in a classroom would not necessarily be of national importance because the impact that would flow those activities would not sufficiently extend beyond the students sitting in the classroom. *Matter of Dhanasar*, 26 I&N Dec. at 893 (stating "[w]hile STEM teaching has substantial merit in relation to U.S. educational interests, the record does not indicate by a preponderance of the evidence that the petitioner would be engaged in activities that would impact the field of STEM education more broadly.") Likewise, here, the record does not establish that the proposed endeavor would impact the field of MMA or athletics more broadly, beyond the students he coaches. *Id.*

We further explained 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 . . . may well be understood to have national importance." *Matter of Dhanasar*, 26 I&N Dec. at 890. We acknowledge that the Petitioner asserts the Company will boost the local economy by hiring workers and through tickets sales, merchandise, and tourism for the events he sponsors. As it relates to the economic impact of the Company, the Petitioner's business plan describes that the MMA industry is worth $4 billion in the United States, and that since 2012, there has been an 18.7% increase in the growth of MMA businesses. In addition, the plan notes that 1.03 million individuals participated in MMA in 2021. However, there is insufficient evidence in the record detailing the economic impact of the Petitioner's proposed endeavor, and we therefore cannot conclude that the economic effects of the endeavor are of national importance. *See Matter of Chawathe*, 25 I&N Dec. at 375.

Furthermore, as noted by the Director, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. Therefore, even if the MMA industry is valuable and growing, that information relates to the importance of the industry in which he will work but does not directly relate to the Petitioner's proposed endeavor. *See Matter of Chawathe*, 25 I&N Dec. at 375. Finally, while we acknowledge the professor's letter explains that the employment of athletes and sports competitors is projected to grow 38% from 2020 to 2030 and that there are approximately 3400 openings for athletes and competitors each year, these assertions do not specifically describe the economic impact of the proposed endeavor and are therefore insufficient to understand or establish its national importance. *Id*. Moreover, as we noted above, the professor's letter lacks probative value for the reasons noted in the Director's decision. *Id*. As such, without more, the Petitioner has not established that his endeavor will have the significant potential to employ U.S. workers or provide other substantial positive economic effects at a level commensurate with national importance.

In *Dhanasar*, we explained that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance . . ., because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner claims that his endeavor is national in scope because through his training programs, he will elevate the standards of martial arts in the United States by imparting advanced techniques and methods to athletes. We

acknowledge the Petitioner's history of successfully competing in MMA, however, he has not provided us with sufficient information to understand how his techniques and methods would elevate the field of MMA at a level commensurate with national importance. *Matter of Chawathe*, 25 I&N Dec. at 375.

Accordingly, and for the reasons stated above, the Petitioner has not satisfied the first prong of the *Dhanasar* framework because he has not established the national importance of his proposed endeavor.

III. CONCLUSION

The Petitioner has not established the national importance of his proposed endeavor, and consequently that a waiver of the job offer and labor certification process, in the exercise of our discretion, is in the national interest.

ORDER: The appeal is dismissed.