U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30558205

Date: APR. 03, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a business & content manager specialist and an entrepreneur in the field of travel industry, 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).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established that 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 as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 (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:

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third

- The proposed endeavor has both substantial merit and national importance;
- The individual is well positioned to advance the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

Id. at 889.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Petitioner stated on Form I-140, Immigrant Petition for Alien Workers, that his proposed employment is "Business & Content Manager Specialist." With the initial filing, the Petitioner submitted a personal statement describing his endeavor as follows:

> [The Petitioner] intends to advance his work as a Business & Content Manager Specialist through his company [redacted] to champion the U.S. Tourism and Hospitality Industry through a wide variety of services, such as promoting and marketing the business, dealing with customer queries and complaints, providing advice about visas or passports, help with the planning and management of travel experiences.

The Petitioner claimed that his company is an innovative business because of its "digital travel content creation" and "a new concept of producing videos." The Petitioner also stated that his company would focus on "ensuring diverse, inclusive, and accessible tourism experiences" for the LGBTQI+ individuals.

The Director concluded that the Petitioner's endeavor does not have substantial merit or national importance under the first prong of the *Dhanasar* framework.[2] On appeal, the Petitioner contends that the Director erroneously applied a "higher standard of proof" and failed to correctly apply the legal framework in *Dhanasar*.

With respect to the standard of proof in this matter, a petitioner must establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. In other words, a petitioner must show that what he claims is "more likely than not" or "probably" true. To determine whether a petitioner has met his burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, we find that the Director weighed all the evidence to evaluate whether the

in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

[2] The Director also concluded that the Petitioner did not satisfy the second and third prong of *Dhanasar*.

Petitioner had demonstrated, by a preponderance of the evidence, that he meets the first prong of the *Dhanasar* framework but determined that the evidence overall lacked probative value.

Although the Petitioner contends that the Director misapplied the *Dhanasar*'s legal framework, he does not indicate the specific instances of such error. Instead, the Petitioner resubmits on appeal its previous response to the request for evidence (RFE) and asserts that the Director did not consider the "totality of the evidence," including his personal statement, business plan, probative research, and expert opinion letters.

Upon de novo review of the record, we find that the Petitioner demonstrated substantial merit of his endeavor. The Petitioner submitted various news articles and reports that sufficiently demonstrate working in the travel industry or being an entrepreneur generally bring economic, educational, and cultural advantages to the United States. Thus, we withdraw this portion of the Director's decision.

However, we agree with the Director's conclusion that the Petitioner did not establish national importance of his endeavor. In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake" and look to evidence documenting the "potential prospective impact" of a petitioner's work. *Dhanasar*, 26 I&N Dec. at 889.

We noted in *Dhanasar* that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We further stated 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, for instance, may well be understood to have national importance." *Id.* at 890. Here, the Director considered the appropriate standards laid out by *Dhanasar* in evaluating national importance and properly analyzed the endeavor's broader implications in the field and its potential to employ U.S. workers or other substantial positive economic effects.

The Petitioner claims that his probative research supports his endeavor's national importance and refers to various reports and articles regarding the value of small businesses and tourism industry, importance of entrepreneurs and immigrant business owners to the U.S. economy, as well as the White House's fact sheet on promoting LGBTQI+ equality during the pride month. However, none of the articles or reports on record specifically referenced the Petitioner's endeavor and how it will directly impact the field or the U.S. economy. Similarly, the Petitioner's personal statement emphasizes the value of the tourism industry instead of focusing on the prospective impact of his specific endeavor. The Petitioner discusses at length about the tourism industry's labor shortage and its importance for the nation's economy in general. However, the Petitioner does not point to any corroborating evidence that would directly link his specific endeavor to the overall impact on the field or economic growth. 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, the expert opinions from [redacted], an adjunct professor of business at the [redacted] and [redacted] a professor of management, marketing, and information systems at

[redacted] do not demonstrate national importance of the endeavor. Professor [redacted] discussed the importance of the tourism industry and stated that travel content creation companies contribute to "economic prosperity by creating job opportunities, supporting local businesses, and stimulating tourism-related infrastructure development" but do not address the Petitioner's specific endeavor or its impact on the field. Professor [redacted] discusses some aspects of the Petitioner's company, [redacted], and its commitment to "innovation and improvement" in the tourism sector but does not provide persuasive details as to how web-based travel bookings, digital travel content, or marketing on social media platforms constitute national or global advancement in the field, instead of being a standard course of business in the digital world. The opinion letter further stipulates that the company's commitment to targeting the LGBTQI+ clientele will lead to "a positive impact on the tourism industry and potential employment generation" but does not support with corroborating evidence how it will broadly enhance the industry rising to the level of national importance other than assisting individual travelers.

To further demonstrate his endeavor's potential positive economic effects, the Petitioner submitted a business plan. In the plan, the Petitioner continues to highlight the growth and importance of the U.S. travel and tourism industry in general, but we have already stated that merely working in an important field or profession does not establish the endeavor's national importance. Although the Petitioner claims that his company will stimulate the U.S. economy by "creating new jobs and increasing the amount of payroll taxes paid," the business plan does not sufficiently detail the basis for its financial and staffing projections, nor does it adequately explain how these projections will be realized. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

We acknowledge that any offer of goods or services has the potential to impact the economy; however, the record does not support the Petitioner's business providing tourism services with nine staff members would operate on such a large scale that would benefit the U.S. economy rising to the level of national importance. The Petitioner has not provided corroborating evidence, aside from claims in his business plan and his own statement, that his company's staffing level and business activity stand to provide substantial economic benefits to the United States. In addition, the record does not indicate that the company will provide substantial impact to any economically depressed areas.

Based on the foregoing, we conclude that the Petitioner has not established that his proposed endeavor has national importance, as required by *Dhanasar*'s first prong. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's arguments regarding his eligibility under the second or third prong. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *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

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.