U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37164031

Date: APR. 08, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an event planner and manager, seeks employment-based second preference (EB-2) immigrant visa classification and 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 Texas Service Center denied the petition, concluding the Petitioner did not establish eligibility for a waiver of the required job offer, and thus of the labor certification. 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 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 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
- On balance, waiving the job offer requirement would benefit the United States.

Id.

[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).

II. ANALYSIS

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. *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Petitioner intends to manage a Florida-based company that will "play a vital role in enhancing cultural diversity and contributing to the U.S. economy by organizing Brazilian-themed events and festivals. These events are designed to promote cultural awareness and emotional well-being within U.S. society, especially in the post-COVID context." He indicated that the services offered by his company "are essential for fostering creativity and multiculturalism, which are critical for both the cultural and economic vitality for the U.S."; the company's focus of "enhancing cultural diversity through the organization of large-scale events aligns with national interests in promoting multiculturalism and economic growth"; and the proposed endeavor "not only addresses critical cultural and societal needs but also has the potential to drive economic development at both regional and national levels, underscoring its importance on a national scale." The Petitioner submitted a business plan, an expert opinion letter, documents related to his education and professional experience, industry articles and reports, and recommendation letters in support of his eligibility.

The Director determined that the record as a whole, including the Petitioner's response to a request for evidence, did not demonstrate the proposed endeavor's national importance. The Director noted that the submitted evidence did not demonstrate the potential prospective impact of the Petitioner's endeavor would extend beyond his future company and clients to impact the field or industry more broadly. In addition, the Director found that the evidence did not establish the Petitioner's endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. The Petitioner did not show that benefits to the regional or national economy resulting from his proposed endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

On appeal, the Petitioner claims that the Director failed to analyze his qualifications as an advanced degree professional or an individual of exceptional ability, did not assess whether he is well-positioned to advance his endeavor, and erred in concluding that his endeavor lacked substantial merit and national importance. The Petitioner contends that his endeavor is expected to generate significant job creation and contribute substantially to the economic development of the U.S. In addition, his company's focus on organizing large-scale cultural events and festivals will stimulate various sectors, from hospitality to entertainment, creating diverse employment opportunities across the nation. He argues that the submitted evidence, to include the expert opinion letter and his business plan, show that the proposed endeavor aligns with national economic priorities, fostering cultural enrichment and economic growth. He further asserts that the potential ripple effects, which include increased tourism, local business support, and infrastructure development, underscore the national importance of his endeavor.

Here, the record supports the Director's determination that the Petitioner has not demonstrated, by a preponderance of the evidence, that he meets the first prong of the *Dhanasar* framework. 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." *See Dhanasar*, *Id.* at 889. Generally, we look to evidence documenting the "potential prospective impact" of a petitioner's work. The Petitioner submitted recommendation letters and an expert opinion letter describing his professional experience and accomplishments and documents addressing the importance of fostering cultural enrichment, sustainable development and tourism, and event planning. However, the Petitioner's skills, expertise, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor he proposes to undertake has national importance under *Dhanasar*'s first prong. Additionally, the documents and letters fail to establish that the Petitioner's specific endeavor has national implications, significant potential to employ U.S. workers, or otherwise offers substantial positive economic effects for the United States.

We noted in *Dhanasar* that "we look for broader implications" of the proposed endeavor and 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. In this case, the Petitioner did not demonstrate that his company's operations would provide substantial economic benefits to Florida, the region, or the U.S. economy more broadly at a level commensurate with national importance, nor did he demonstrate that his company's activities would substantially impact job creation and economic growth, either regionally or nationally.

For example, the business plan projects that his company will hire 10 employees, including his own position, during the first five years. Moreover, the record does not sufficiently show how the company will pay salaries and other operational expenses, with cumulative operating costs totaling $296,200 in the first year and $701,814 in the fifth year, and only $22,260 in total available capital for the first year. The submitted documentation does not contain sufficient details to demonstrate how the Petitioner's company will reach the stated economic impact objectives; how the company will pay for potential workers and business expenses; and overall, how his proposed endeavor will substantially impact job creation and economic growth in the region or nation.

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not demonstrated eligibility for a national interest waiver, as a matter of discretion. Further analysis of his eligibility under the remaining prongs outlined in *Dhanasar*, or whether he meets the qualification for the underlying EB-2 classification, would serve no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make 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 alternate issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.