U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30538696

Date: APR. 11, 2024

Appeal of Texas Service Center Decision

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

The Petitioner is personal financial adviser who 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).

The Director of the Texas Service Center determined that despite qualifying for the underlying EB-2 visa classification as an individual holding an advanced degree,[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. Applying the three-prong analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), the Director concluded that the Petitioner: (1) did not establish that his endeavor has national importance,[2] (2) did not demonstrate that he is well-positioned to advance the endeavor, and (3) did not show 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.

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 because the Petitioner did not establish that his specific proposed endeavor has national importance and thus, he did not meet the national importance requirement of the first prong of the *Dhanasar* framework. 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 two 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

[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 administration specializing in foreign trade in August 2004. The record also contains evidence showing that the Petitioner subsequently attained at least five years of progressive experience in his specialty as required by 8 C.F.R. § 204.5(k)(2).

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

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).

Further, 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 discussing whether the proposed endeavor to work as a personal financial adviser, the Director addressed the Petitioner's supporting statements and professional plan which highlighted his professional experience and qualifications as tools for stimulating the U.S. economy and providing "sizeable benefits" to U.S. businesses. However, the Director determined that the Petitioner's endeavor would have a limited impact, effecting mostly the Petitioner's prospective employers and customers in the local community. The Director found that the record lacks evidence showing that the endeavor would offer substantial positive economic effects to the nation or to the region where it operates or that it would significantly impact employment levels regionally or nationally. The Director concluded that the record lacks evidence showing that the impact of the Petitioner's endeavor would extend beyond his employers or clientele to more broadly impact the field of financial consulting or that the endeavor would otherwise create a broad impact at a level that is commensurate with having national importance.

On appeal, the Petitioner contends that his endeavor will create "ripple effects" that will go beyond his individual clients and will "bring about significant national, and potentially global, reverberations in the financial sector." However, the Petitioner has not provided evidence to demonstrate that his work as a personal financial adviser would result in an impact of regional or national importance or that he would operate on such a scale as to create an impact at the national importance level.

The Petitioner also stresses his credentials and work experience, arguing that "the best . . . way to estimate the *prospective impact* of one's work is by evaluating the individual's *past achievements*." (Emphasis added in the original). We disagree and note that evidence of the Petitioner's skills and achievements are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar,* 26 I&N Dec. at 890. Evidence of the Petitioner's prior successes as a personal financial adviser, while potentially useful in determining whether the Petitioner is well-positioned to advance the endeavor, do not demonstrate the national importance of that endeavor or establish that the impact of the endeavor would extend beyond the Petitioner's prospective employers or clients. Likewise, the Petitioner's assertion that the Director "disregard[ed] the intrinsic value he brings to the U.S." also incorrectly places focus on the Petitioner and thus does not address the critical issue of whether the *endeavor's* "intrinsic value" is so significant that it would impact the regional or national economy or that the level of substantial positive effects from the endeavor would be at the level contemplated in *Dhanasar.*

Lastly, the record does not support the Petitioner's claim that he has provided "profuse documentation" demonstrating his endeavor's national importance. The Petitioner's supporting evidence includes a

list of his prior positions with former employers; the Petitioner claims that he achieved "impressive results" because of the contributions he made while working for the listed employers. However, as noted above, the Petitioner's experience and qualifications are relevant factors in a second prong, rather than a first prong discussion, only the latter of which focuses on the endeavor itself. *Id.* The Petitioner also lists objective data which show that individuals who use a financial adviser reap financial benefits and those who have a written financial plan have more "confidence and inner peace." However, showing that there are benefits to using a personal financial adviser and/or creating a financial plan is not sufficient to demonstrate that the specific endeavor is likely to result in "substantial positive economic effects" at a level that is commensurate with having national importance. *Id.* And while the Petitioner claims that his endeavor "is a major economic contributor," he offers no evidence to support this assertion; instead, he lists more objective data which illustrates the growth of the "global financial services market" but does not mention the Petitioner's endeavor or establish that the endeavor would broadly impact the financial services market. Likewise, although the Petitioner claims that his endeavor will "enhance productivity and profitability" of individuals and small and medium-sized businesses, he does not provide evidence demonstrating that the impact of his endeavor will reach beyond the specific individuals or businesses using his services or that the impact will result in such benefits as job creation, particularly in an economically depressed area, enhanced societal welfare, or other benefits on a broad scale as in *Matter of Dhanasar.*

In sum, the Petitioner has not provided evidence that his endeavor meets the national importance element of the first prong of the analytical framework in *Matter of Dhanasar.* As such, the Petitioner has not overcome the Director's conclusion regarding this issue.

ORDER: The appeal is dismissed.