U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37831334

Date: APR. 21, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an urban planner, seeks employment-based second preference (EB-2) immigrant classification 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 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 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. 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. An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. 8 C.F.R. § 204.5(k)(2).

Once 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 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
- On balance, waiving the job offer requirement would benefit the United States.

II. ANALYSIS

The Director determined that the Petitioner qualified for the underlying EB-2 classification as a member of the professions holding an advanced degree. Therefore, the remaining issue is whether the Petitioner established eligibility for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* 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. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with the Director's conclusion that the proposed endeavor has substantial merit as it falls within the range of areas of substantial merit, namely business, entrepreneurialism, technology, and health. *Id.* However, while the Petitioner has established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner stated his proposed endeavor in the United States was to start a modular design consulting company "focusing on creating cost-effective, sustainable, and social impact practices" aligning with the "increasing demand for sustainable infrastructure solutions across the United States." The Petitioner asserted that his proposed endeavor would address critical housing shortages in the United States and indicated that modular construction "can significantly contribute to alleviating the housing crisis, ensuring that more Americans have access to safe and affordable homes" while creating alternative housing options for the homeless population. The Petitioner stated that his proposed consulting company and its focus on modular housing and construction was consistent with Biden Administration initiatives promoting clean energy, sustainability, and environmental justice. The Petitioner also emphasized that modular homes could be rapidly deployed in response to natural disasters and enhance national resilience to emergencies. He further asserted that his experience in the healthcare construction industry could be used to implement modular construction to enhance public health and provide "cleaner, safer, and more accessible facilities across the nation."

The Director later issued a request for evidence (RFE) stating that the Petitioner relied heavily on the asserted importance of his field as well as his professional qualifications and experience rather than the prospective potential impact of his proposed endeavor. As such, the Director requested that the Petitioner submit evidence to demonstrate potential prospective impact of his proposed endeavor, including a more detailed explanation of his proposed endeavor and why it was nationally important

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

and documentary evidence to support that it would have a national impact within his field, significant potential to employ U.S. works or offer other substantial positive economic effects, broadly enhance societal welfare or cultural enrichment, and/or impact a matter that the government has described as having national importance.

In response, the Petitioner pointed to a provided business plan projecting "significant revenue growth over five years reaching approximately $884,000 annually and creating job opportunities across various positions and inject[ing] capital into the local economy and related industries such as manufacturing and transportation." The Petitioner emphasized a "Transitional Housing Program" he was coordinating through a non-profit organization to improve the health and career opportunities for the homeless population through modular housing. The Petitioner again asserted that he would significantly contribute to sustainability and cost reduction in healthcare facilities, lessening their environmental impact and increasing their operational efficiency. He further indicated that Florida, where he planned to operate his consulting company, had the nation's third-highest homeless population creating "a demand for rapid, cost-effective housing solutions and infrastructure recovery, particularly through modular design, which aligns with the company's goal of providing affordable housing and disaster relief." The Petitioner explained that his company would aim "to drive sustainable practices across the construction industry...through modular homes designed to reduce waste, enhance energy efficiency, and promote off-grid living." The Petitioner asserted that the proposed endeavors of his consulting company were consistent with Biden Administration executive orders promoting clean energy, environmental justice, climate change, infrastructure needs in underserved communities, and affordable housing and healthcare.

In addition, the Petitioner submitted a letter highlighting the goals of his proposed endeavor, including designing cost effective and sustainable solutions to end homelessness, solving the affordable housing crisis, promoting more sustainable infrastructure to build a healthier environment, creating cost effective and rapidly deployable solutions to disaster relief, revolutionizing the sustainable development and construction industries, fostering economic and community development, and increasing the United States' competitiveness in the area of modular design.

The Director concluded the Petitioner did not demonstrate the national importance of his proposed endeavor stating that he did not establish how the services provided through his consulting company would impact his industry more broadly and rise to the level of national importance. The Director pointed to projected revenues for his proposed consulting company reflecting in a provided business plan, including just over $1 million in revenue and four employees hired by its fifth year. The Director determined that the Petitioner did not support these projections or demonstrate that they would extend beyond his community to impact his industry more broadly. The Director acknowledged the Petitioner's intent to impact sustainability and several other broad social issues in the United States but concluded that he did not sufficiently establish that his various endeavors would have a national level impact on any of these large national issues.

On appeal, the Petitioner asserts he never claimed that the national importance of his proposed endeavor was based upon its impact on the economy and job creation, but that the primary basis of its national importance was the "development of sustainable transitional housing programs in communities all across America." The Petitioner states this is based on his personally developed plan the [redacted] a "well-funded, veterans administration supported

non-profit" project he states is "scalable to any community." The Petitioner contends that this proposed endeavor is consistent with Biden Administration initiatives directing the reduction of climate change in all sectors of the economy, promotion of environmental justice, protection of public health, and job creation in local economies, while also providing affordable housing for the homeless. He further emphasizes his "wealth of experience and expertise in multiple areas," pointing to large sustainable construction projects he previously worked on as well as his prior work with modular construction in the healthcare industry. The Petitioner also asserts that through his consulting services he can assist in making the healthcare sector more sustainable. The Petitioner states that since he will be acting as a consultant his services will be widely available and "have the potential for broad national impact."

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also 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.

On appeal, the Petitioner emphasizes that since he will be operating a consulting company, he can focus on various projects and national problems, including a proposed project to provide modular spaces to the homeless and efforts to make healthcare more environmentally friendly and sustainable, among other endeavors. However, the Petitioner also submitted evidence of a fulltime job offer dated in September 2024[2] he received from a Florida based company to work as "Director of Development/Construction," a job offer he signed with the note "I accept." This material discrepancy leaves substantial question as to the actual nature of his proposed endeavor and its potential prospective national impact since the Petitioner's proposed endeavor and its asserted national importance was based on him starting a consulting company and his provision of services in various industries, including the claimed project to alleviate homelessness emphasized on appeal.

Even if we accept the Petitioner's assertion that he plans on opening a consulting company focused on modular construction and other related services, he submitted an array of proposed endeavors and asserted national impacts leaving uncertainty as to their credibility. For instance, the Petitioner stated that his consulting company would provide services having a national impact on a wide range of industries and national-level problems, including environment sustainability in healthcare, construction software, the shortage of affordable housing, and disaster relief, among others. However, the Petitioner did not credibly support that his proposed consulting services would have a national level impact on any of these industries or national-level problems. As noted, the Petitioner provided documentation indicated that he accepted full-time employment outside of his consulting company leaving question as to how he would develop his consulting company as necessary to have a national level impact on these different facets of his industry and society in general. On appeal, the Petitioner emphasizes a non-profit project related to the provision of modular spacing to the homeless, leaving uncertainty as to how he would devote his time to these many initiatives at once and have sufficient

[2] The petition was filed on July 8, 2024.

time and resources to effectuate a national level impact. The Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner also emphasizes the experience he accumulated working on large environmentally friendly construction projects, including those in the healthcare industry, but he did not sufficiently articulate his plans to provide consulting services is these large industries and to demonstrate that these services would likely extend beyond his immediate clients and have a potential prospective national level impact. For instance, it was not clear what specific initiatives he would implement to potentially bring about national level impacts in the healthcare industry using modular construction or how he would promulgate his claimed innovative construction software he was asserted to have implemented on large scale environmentally friendly construction projects in California. While we recognize that the Petitioner gained a wide range of experience while employed as an urban developer and construction director, a petitioner's expertise and record of success are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated the national importance of a specific proposed endeavor. However, as discussed, the Petitioner presented an unfocused variety of potential proposed endeavors leaving uncertainty as to his assertions of national level impact.

To further illustrate, the Petitioner emphasizes on appeal a proposed project to provide modular units to the homeless he would pursue through a non-profit organization based in California. The Petitioner states that this is a "well-funded, veterans administration supported non-profit" and that his proposed plans to use modular units for the homeless is "scalable to any community." The Petitioner provided projections reflecting that it could provide anywhere from 24 to 48 modular units at a cost ranging from $180,000 to $300,000. However, it is not clear in what communities this initiative would be implemented and how it would be scaled to other communities to generate a national level impact on the homelessness problem in the United States as claimed. A support letter from the board of directors stated that this initiative would require "substantial fundraising via grants, public and private donors." However, there is little supporting documentation to support that such a level of financial support would likely be secured to lead to a potential national level impact.

In fact, this support letter emphasizes yet another project specific to providing specially designed backpacks for the homeless, an initiative seemingly unrelated to the Petitioner's plans in the modular construction industry. Further, on appeal, the Petitioner states he anticipated that he will be finalizing plans for this project and "launching a proof of concept in late 2025," noting that it would "ideally be led by [the Petitioner]." It is difficult to discern how we are to evaluate the likely potential prospective national level impact of a proposed endeavor that has not yet been clearly defined and finalized, a project the Petitioner appears to indicate he may not lead. Again, the Petitioner's proposed plans and asserted national impacts are unclear and dispersed, leaving uncertainty as to the likelihood that any of them would have a national level impact. Generalized conclusory statements that do not identify a specific impact to the field have little probative value. *See e.g., 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). Although the Petitioner's various proposed endeavors bear some relation to certain general goals of the former Biden Administration, such as promoting clean energy, environmental justice, infrastructure needs in underserved communities, and affordable housing and

healthcare, the Petitioner has not sufficient established that his numerous initiatives would have a potential prospective national level impact on these large national problems.

Further, the record does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 890. It is notable that the Petitioner states on appeal that his claims of national importance are not based on the economic impacts of his many proposed endeavors, including job creation, yet he proceeds to assert this anyway, highlighting the ambiguous nature of his assertions of national importance. Regardless, the Petitioner's submitted business plans indicated his consulting business would hire four employees and generate a little more than $1 million in annual revenue after the first five years of operation. However, the Petitioner did not properly substantiate how these rather limited projections would have a national level impact on a modular construction industry he states will reach a market size of over $83 billion annually by 2028. The Petitioner vaguely indicates that Florida has the third most people impacted by homelessness but provided little detail and documentation to sufficiently demonstrate that his consulting services would likely have a national impact on economically depressed areas in this state. In fact, his asserted project to provide modular space for the homeless was stated to be based on California, rather than Florida. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, he has not provided sufficient explanation of the prospective national impact directly attributable to his proposed work, or established how his endeavor would impact an economically depressed area. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

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 as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third prongs. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); *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).

ORDER: The appeal is dismissed.