U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37599757

Date: APR. 23, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a musician and teacher, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding the record did not establish that the Petitioner qualified for a national interest waiver. 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 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 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." *Id.* 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 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 Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

- 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.

See Dhanasar, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

II. ANALYSIS

The Director concluded that the Petitioner qualified as an advanced degree professional. The issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

In response to a request for evidence, the Petitioner submitted a professional plan that describes his intention to work as a music teacher in the United States. His plan provides the following (quoted as written):

> **Objectives**
> - To investigate pedagogical methods and strategies of musical teaching for the different cultures and communities existing in the Florida locality.
> - Impart knowledge, through practical and theoretical classes in the pursuit of musical excellence and joint performance to achieve a positive impact on the lives of children, youth and adults in [redacted] Florida and nationally.
> - To achieve a positive impact on communities, as a means of motivation and inspiration, recreation and social transformation.
>
> **Mission**
> Continue with the preparation in the art of music, which allows transmitting knowledge and recreation to society, transforming the quality of life of people of all ages and cultures in the United States.
>
> **Vision**
> To continue as a professor and multi-instrumentalist instructor, Lyrical Singing, Instrumental Performance, Tenor and Researcher that allows to project oneself at the National Level, supporting continuous preparation and educating, motivating and inspiring children, young people and adults . . . .

The Petitioner's professional plan also discusses, in general terms, his intention to arrange performances for students, to teach music as a form of therapy, and to maintain connections to the community in which he works to raise funds and identify programs and services that he could offer. The Director determined that the Petitioner's proposed endeavor has substantial merit; however, the Director concluded the record did not establish that the endeavor is of national importance.

On appeal, the Petitioner reiterates his explanation of the national importance of his endeavor. Upon review, for the reasons discussed below, we conclude that the Petitioner has not sufficiently

demonstrated the national importance of his endeavor in order to establish his eligibility under the first prong of the *Dhanasar* analytical framework.

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

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* In *Dhanasar*, we further noted 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 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. Further, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. *Id.* at 889.

On appeal, the Petitioner highlights elements of *Dhanasar* to demonstrate the national importance of his proposed endeavor. "*Dhanasar*," he states, "recognizes that contributions in various fields, including business, technology, health, and education, may have national importance if they broadly impact societal welfare or the economy." He states that *Dhanasar* "clarifies that while the foreign national's work must broadly enhance societal welfare or the economy, they are not required to be engaged in work that is of interest only to large segments of the population. Instead, the field of endeavor or anticipated impact on the U.S. economy, education, health, or infrastructure can qualify." He asserts the following as evidence of his proposed endeavor's "broader economic and sectoral impact of music education and performance":

> [The Petitioner's] proposed endeavor—providing the development of educational services related to cultural musical projects, which are intended to be promoted through workshops, masterclasses, schools, community centers, and cultural institutions across the United States—meets the national importance prong because music education is a recognized field of national importance, as it has profound impacts on cognitive development and creativity, particularly for youth. Studies have shown that music education can improve academic performance, emotional intelligence, and critical thinking skills, all of which are vital for a workforce of the future, generating broader societal goals of expanding access to quality education and preservation of intangible cultural heritage.
>
> His services aim to make multifaceted contributions to cultural enrichment, educational advancement, and societal unity. These outcomes have broad national implications, particularly in the sector of cultural tourism, employment rates, [generation of] revenue streams, and potentially creating spillover effects in related industries.

While we recognize the general importance of music as a part of developmental education and as part of a culture that values the arts, the Petitioner generally describes broad ambitions to make positive impacts on society through music education without defining any specific endeavor that he intends to pursue. The Petitioner implies on appeal that his intention to teach music has innate national importance. However, again, in determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. The Petitioner emphasizes the far-reaching goals of his teaching activities, which he says "are intended to be promoted through workshops, masterclasses, schools, community centers, and cultural institutions across the United States," but he does not offer an outline or pathway through which to actualize that vision or otherwise show the viability of a venture that, itself, is described in vague terms. The Petitioner provides only anecdotal evidence of the potential positive outcomes of learning music. It is not clear how an individual teaching music—even with meritorious intent and a belief in its potential positive impacts on society in general—would undertake an endeavor of a scale that would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

In terms of potential economic impacts to a given population as a result of the Petitioner's proposed endeavor, he emphasizes his intention to work with growing Hispanic populations. The Petitioner also makes broad assertions that his contributions through his endeavor to teach music will have "national implications," affecting tourism, revenue streams, "and potentially creating spillover effects in related industries." Apart from the Petitioner's speculative statements, the record does not contain evidence to substantiate that his activities teaching music would result in the realization of the positive outcomes he describes, nor does he adequately articulate how his proposed endeavor would have a prospective national level impact. The Petitioner has not sufficiently established the national importance of his proposed endeavor based on its potential job creation or impact on the U.S. economy, nor has he provided adequate evidence to show that he would employ a significant population of workers in a particular region. The Petitioner has not shown that his proposed endeavor would offer a region or its population substantial economic benefits through employment levels, business activity, or tax revenue. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. He has not done so here.

In *Dhanasar* we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, the Petitioner has not explained how his proposed endeavor would have a broader impact within the field of music education or training, such as through his implementation of any teaching methods he has developed or through other innovations that he intends to deploy. The Petitioner is adamant about the potential impacts of his proposed activities, but it is not clear how his work as an individual teaching music would have a potential prospective impact beyond individuals availing themselves of his teaching, nor does the evidence demonstrate that his activity as a single teacher of music in a field of with innumerable educational opportunities has significant potential to broadly enhance societal welfare or cultural or artistic enrichment, or to contribute to the advancement of a valuable technology or field of study.[2]

[2] *See* 6 USCIS Policy Manual F.5(D)(1).

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory 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 alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not demonstrated that the proposed endeavor has national importance. As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

ORDER: The appeal is dismissed.