U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33387253

Date: AUGUST 13, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an accountant, 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 qualified for EB-2 classification as a member of the professions holding an advanced degree, but 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 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 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." 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 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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.

Id.

II. ANALYSIS

In his business plan, the Petitioner states he will be the head bookkeeper and tax preparer for a Massachusetts-based accounting, bookkeeping, and tax preparation company serving American, Brazilian, and Hispanic populations and businesses. The Petitioner explains his company opened in 2022, he is the sole owner and employee, and he plans to open offices in Florida and Georgia within four years. In his first personal statement, the Petitioner added that he would develop training programs and help clients navigate the complex tax system in the United States.

The Petitioner submitted evidence that he holds the equivalent of a United States bachelor's degree and over five years of progressive experience in accounting. The Director determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether he qualifies for and merits a waiver of the job offer requirement in the national interest.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner established the substantial merit of his proposed endeavor. We agree.

The Director concluded the Petitioner did not establish the national importance of his proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that his proposed endeavor would sufficiently extend beyond an organization and its clients to impact his field more broadly, would have substantial positive economic effects, would broadly enhance societal welfare, or impact a matter that a government entity has described as having national importance or is the subject of national initiatives.

On appeal, the Petitioner asserts the Director erred and his business plan shows his proposed endeavor shows substantial potential for job creation and to gain significant market share. The Petitioner's business plan states that the revenue of the accounting services industry in the United States is $144.5 billion and is projected to rise to $151.5 billion by 2028. The plan projects the Petitioner's company will employ two other individuals the first year, increasing to 18 in the fifth year. The plan forecasts the company will have a net profit of $26,457 the first year, increasing to $172,997 in the fifth year;

and make tax payments of $33,089 the first year, increasing to $214,737 in the fifth year. The employment of up to 18 people does not demonstrate significant potential to employ United States workers, even if the Petitioner's company operates in an economically depressed area. The company's projected net profit and tax payments also do not establish that the company would have substantial positive economic effects on a level commensurate with national importance considering the accounting services industry's revenue is $144.5 billion. *See id.* at 890 (discussing significant potential to employ United States workers and other substantial positive economic effects as indicative of national importance).

The Petitioner also claims the Director did not adequately consider reference letters which attest to the prospective impact of his proposed endeavor. The Petitioner submitted a letter from E-N-[2], Assistant Professor of Accounting at [redacted] expressing his opinion that the Petitioner qualifies for a national interest waiver. Professor N- states the Petitioner's proposed endeavor "has significant potential to strengthen U.S. companies by contributing to their continued growth and profitability." Professor N- discusses the importance of accounting, tax planning services, and business transactions between Brazil and the United States. Professor N- summarizes the Petitioner's education and professional experience and notes the Petitioner plans to apply to become a certified public accountant. Professor N- does not, however, specify how the Petitioner's work would extend beyond his company's individual clients to impact his field more broadly on a level commensurate with national importance. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it relates to U.S. strategic interests).

The Petitioner also submitted letters from employers and colleagues discussing his achievements. For example, A-F-L- praises the Petitioner's work in Quickbooks and commends his "distinguished ability to solve tax-related problems in a simple, effective, and extremely assertive manner." R-D-A-N- praises the Petitioner's preparations of income tax returns and states his "work with [his] office was essential to achieve extremely positive results regarding customer satisfaction." F-M-M-P- recommends the Petitioner as a "distinguished professional" who performed "activities in the Tax and Accounting areas with exceptional ability in customer service, always making the processes faster and more efficient." M-A-F-J- commends the Petitioner's accounting services, which enabled his company to save 37 percent in one year. A-B-D-F-F- states the Petitioner's work resolved problems in accounting, fiscal, payroll, auditing and forensics of companies in the state of Goias in Brazil. A-H-N-D-C- praises the Petitioner as "a distinguished professional in his field" who has a "unique capacity to solve difficult situations for clients by offering the best possible strategy." While these letters attest to the Petitioner's significant skills, experience, and successful work for the authors' businesses, they do not address his specific proposed endeavor or indicate that it would extend beyond his company to impact the accounting field more broadly. *See id.* at 889 (explaining "we look for broader implications").

In response to the Director's request for evidence (RFE), the Petitioner submitted additional letters from A-H-T- and O-A-F-. A-H-T- recounts the Petitioner led "extraordinary growth" in their company's portfolio and his "work undoubtedly serves as an inspiring example for other professionals in the field." A-H-T- explains the Petitioner's "ongoing commitment to accounting excellence maintains U.S. standards at a globally competitive level, ensuring that the companies continue to excel

[2] We use initials to protect the privacy of the referenced individuals.

internationally." O-A-F- commends the Petitioner's work for his company and expresses confidence that the Petitioner's "experience in regulatory compliance and his ability to help companies comply with the strictest standards would be indispensable qualities for any organization in the US." O-A-F- opines the Petitioner's work "not only benefits the individual entrepreneur but actually impacts the entire market, especially when we consider that healthy, well-managed companies contribute to economic stability and overall growth." A-H-T- and O-A-F- attest to the Petitioner's notable skills and experience and express confidence in his ability to successfully serve clients in the United States, but they do not specify how his company's work would extend beyond its individual clients to impact the accounting field more broadly.

The Petitioner further asserts the Director erroneously concluded his proposed endeavor would not have broader implications because his company will provide specialized financial services which are vital to companies in various industries. In his statement submitted in response to the RFE, the Petitioner states his company would provide inoculation of accounting software, cloud-based platforms and double-entry accounting; tax software, regulatory compliance tools; legal documentation software, business planning tools; audit software, internal control assessment methods; financial reporting tools, tax identification and S-Corp application tools; accounting analysis and financial modeling. The Petitioner explains that these services and techniques cannot be fully performed by ordinary accountants and his strategic use of these approaches and tools "will result in a positive social and economic impact on [his] clients, promoting growth, productivity, and business success." We do not question the Petitioner's skills and ability to provide specialized services. The Petitioner has not established, however, that his provision of specialized services would extend beyond his company's clients to impact his field more broadly on a level commensurate with national importance.

The Petitioner claims his proposed endeavor will broadly enhance societal welfare or cultural enrichment by aligning with the principles of the Circular Economy, and providing tax preparation, advanced bookkeeping, company creation, auditing, financial statements, and reinstatement and reporting mechanisms. In his RFE response statement, the Petitioner asserts his proposed endeavor "will contribute to closing the financial literacy gap and empow[er] individuals to make informed decisions about their finances." The Petitioner explains that by providing services in multiple languages, he will ensure "that diverse communities can access essential financial resources." The Petitioner also states he will provide affordable services that will alleviate financial burdens for small and medium-sized businesses, which will strengthen the financial foundations of local businesses and stimulate sustainable economic development. The Petitioner claims his proposed endeavor will broadly impact society by "creat[ing] a more financially literate and economically resilient population."

While the relevant evidence indicates the Petitioner may achieve these goals for his company's individual clients, it does not establish that his work would reach beyond serving individual clients to broadly enhance societal welfare or cultural enrichment. 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 record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his company's clients to impact his field more broadly in a manner indicative of national importance.

The Petitioner also asserts his proposed endeavor impacts a matter that a government entity has described as having national importance or is the subject of national initiatives. The Petitioner claims his proposed endeavor aligns with "the broader national agenda, emphasizing economic stability, job creation, and sustainable financial practices." The Petitioner did not submit evidence of this national agenda or of any other specific matters or initiatives that his proposed endeavor would impact. Rather, he states generally that "government agencies have emphasized the importance of initiatives that enhance financial education and economic stability" and refers to "the broader national effort to create a resilient and prosperous economy." Without specifically identifying a matter that a government entity has described as having national importance or is the subject of national initiatives, the Petitioner has not demonstrated that his proposed endeavor would align with such a matter or initiatives in a manner commensurate with national importance. In addition, our assessment of national importance does not focus on the importance of issues affecting a field or our nation in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, the Petitioner has not demonstrated the potential prospective impact of his proposed endeavor on any specific national matter or initiative. *See id.* (explaining we consider the proposed endeavor's potential prospective impact when assessing national importance).

The Petitioner has not established that his proposed endeavor has significant potential to employ United States workers, would have other substantial positive economic effects, has a potential prospective impact on a national matter or initiative, or would otherwise impact his field more broadly in a manner indicative of national importance.

C. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of his specific proposed endeavor and he does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of his eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is 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).

III. CONCLUSION

The Petitioner has not established the national importance of his proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, he has not demonstrated that he is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.