U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33388719

Date: AUGUST 14, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an accountant and senior business associate in the financial services industry, 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 response to the Director's request for evidence (RFE), the Petitioner submitted a letter in which he states he is researching financial institutions' readiness for Artificial Intelligence (AI)-driven credit risk assessments, and he intends to share his findings and recommendations with the domestic finance office of the United States Department of the Treasury. The Petitioner explains he also intends to join the Department of the Treasury as "a Financial Analyst and Innovation in Financial Institution Specialist, focusing on promoting responsible AI integration in the financial sector."

The Petitioner submitted evidence of his United States master's degree in business administration. 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

1. Substantial Merit

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 did not establish the substantial merit of his proposed endeavor because he indicated that he planned to continue working in his current position as a senior associate for the [redacted] firm and did not describe his proposed endeavor with sufficient specificity. On appeal, the Petitioner claims the Director did not consider the additional information he provided in response to the Director's RFE.

In his RFE response, the Petitioner described his proposed endeavor in detail and submitted information regarding the importance of securing the use of AI in financial services. The Petitioner also submitted an abstract of an article he co-authored entitled [redacted] which addresses credit inaccessibility in economically displaced communities. De novo review of the relevant evidence shows the substantial merit of the Petitioner's proposed endeavor and the Director's contrary determination is withdrawn.

2. National Importance

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 industry or field more broadly.

On appeal, the Petitioner claims the Director erroneously concluded that he intended to continue his work as a senior associate at [redacted] and did not consider his further explanation of his proposed endeavor in his RFE response. The Petitioner asserts that his proposed endeavor has national importance because he intends to propose policy recommendations to the U.S. Department of the Treasury and join the federal government as a financial analyst and innovation in financial institution specialist, "focusing on promoting responsible AI integration in the financial sector."

The Petitioner submitted a copy of the 2021 Executive Order on Climate-Related Financial Risk, the 2023 Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, and an article on the Fintech industry requiring additional oversight. These documents address the importance of responsible use of AI, but do not address the Petitioner's proposed endeavor. 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, none of the documents mention the Petitioner or address the potential prospective impact of his proposed endeavor. *See id.* (explaining we consider the proposed endeavor's potential prospective impact when assessing national importance).

The Petitioner also claims letters of support demonstrate the national importance of his proposed endeavor. He initially submitted letters from employers and colleagues who praise his accomplishments, knowledge and skills, but do not fully address his proposed endeavor. For example, O-A-[2] praises the Petitioner's contributions to the [redacted] firm where he received awards and "manages intricate responsibilities such as portfolio valuation for investment purposes and valuation of special purpose vehicles for gift tax purposes." S-O- praises the Petitioner's "trailblazing exploration and investigation of the application of AI in credit scoring," which "is not merely innovative but represents a comprehensive transformation, addressing ethical considerations, regulatory compliance, and societal impact." Q-A-L- also commends the Petitioner's research on AI's use in credit scoring models, which "has potential significant contributions to financial institutions, offering economic growth and financial inclusivity." B-O-A- praises the Petitioner's work on a financial reporting project for the [redacted] and describes him as "a potential catalyst for significant contributions in the United States' financial sector." O-O- commends the Petitioner's work for [redacted] in Nigeria and expresses confidence that he "will continue to make significant contributions to the finance sector in the United States." C-E- also praises the Petitioner's contributions to [redacted] in Nigeria and his involvement in professional organizations which "demonstrates his commitment to elevating the finance industry and contributing to the global finance community."

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

While these letters praise the Petitioner's research and past work and express confidence in his ability to contribute to the financial sector in the United States, they do not specifically address the potential prospective impact of his proposed endeavor. In response to the Director's RFE, the Petitioner submitted an additional letter from O-A- who praises the Petitioner's work at [redacted] in New York and expresses confidence that he "possesses the necessary skills, knowledge, and drive to advance his endeavor for the EB2 NIW." However, O-A- does not describe or discuss the Petitioner's proposed endeavor or any broader impact it would have in his field. *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).

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 work with a single government entity to impact his field more broadly in a manner indicative of national importance. Although the Petitioner has published one co-authored article, he did not submit evidence that his article has been cited or otherwise relied upon by other researchers or professionals in his field and the letters from his employers and colleagues do not discuss any impact his proposed endeavor would have in his field. *See id.* at 889 (explaining "we look for broader implications"). Consequently, the Petitioner has not established the national importance of his proposed endeavor.

B. 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.