U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 33319133

Date: AUG. 26, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur in the field of supply chain management, 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 record 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 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 establishes eligibility for the underlying EB-2 classification, they must then demonstrate 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:

- The proposed endeavor has both substantial merit and national importance;

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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

The Director determined that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional. The remaining issue to be determined 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 his definitive statement, the Petitioner states he plans to work as an entrepreneur in the supply chain management field. Through his endeavor, he intends to provide specialized outsourcing and supply-chain management to U.S. companies via four main service lines: supply chain consultancy; supply chain purchase outsourcing; negotiation and procurement training; and searches for alternative suppliers. The company's goal is to help customers shorten industrial processes, as well as increase productivity and business sustainability.

The Director concluded that the Petitioner's endeavor has substantial merit but not national importance under *Dhanasar's* first prong. On appeal, the Petitioner asserts that the Director imposed "novel substantive and evidentiary requirements" and a stricter standard of proof than that of a preponderance of the evidence. In addition, with respect to the *Dhanasar* analytical framework, the Petitioner contends that the Director "did not give due regard" to the evidence submitted, suggesting that the Director did not properly weigh his previously submitted resume, business plan, evidence of his work in the field, letters of recommendation, and industry reports and articles, which he claims show his endeavor's national importance.

We acknowledge the Petitioner's appellate claims but, nevertheless, conclude that the documentation in the record does not sufficiently establish the proposed endeavor's national importance as required by *Dhanasar's* first prong.[2] Further, we see no evidence that the Director imposed novel requirements or an incorrect standard of proof. The Petitioner has not elaborated on these claims or pointed to specific instances of this that persuade us otherwise.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and 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 889-90.

[2] While we do not discuss each piece of evidence contained in the record individually, we have reviewed and considered each one.

The Petitioner has not established that his proposed endeavor's potential prospective impact rises to the level of national importance. The Petitioner claims that his endeavor will significantly contribute to the economic growth and job creation in this nation. According to his business plan, the Petitioner claims he will employ 12 people with a revenue of $2,270,000 in the first year of operation, increasing to 390 people with a revenue of $47,300,000 by the fifth year of operation. The Petitioner contends his work will result in $1.7 million in tax revenue over the course of five years.

The Petitioner, however, has provided little explanation or corroboration for the bases of these projections and has not sufficiently elaborated on how the projected revenue and proposed employment numbers will impact the area of intended operations, including in HUBZones.[3] For example, the Petitioner has not explained his revenue data's significance or how that data shows that any potential benefits to the regional or national economy would reach the level of "substantial positive economic effects" as contemplated by *Dhanasar*. *Id.* at 890. Similarly, the Petitioner has not elaborated on the relevance of his employment numbers and detailed how such future staffing levels would provide substantial economic benefits to Florida or the U.S. economy more broadly at a level commensurate with national importance. As such, even if these projections were more than conjecture, we would still conclude that the Petitioner had not established that the endeavor would operate on a scale rising to the level of national importance. While any increased business activity has the potential to positively impact the economy, the Petitioner has not demonstrated how the economic activity resulting from his individual supply chain management business—the specific endeavor proposed here—would rise to the level of national importance.

The Petitioner also asserts that his company will "enhance[e] the United States' supply chain management capabilities" and "revolutionize procurement and logistics for U.S. companies." He contends that his company is "set to deliver unparalleled productivity gains and costs savings, specifically targeting the complex sourcing challenges that businesses face both domestically and internationally, with a specialized focus on Latin America." Despite these claims, however, the Petitioner does not specifically detail how he will accomplish these sizeable objectives through his endeavor. While the evidence may support that his endeavor stands to positively impact his individual employees and business clients, it does not demonstrate how his endeavor will have a broader impact consistent with national importance. For instance, while the Petitioner argues that his business will empower U.S. companies to be more competitive on a global scale by ensuring timely fulfillment and efficient capacity planning, he does not explain how these objectives differ from the typical goals of a supply chain management company or how meeting these goals would otherwise stand to broadly impact the logistics, manufacturing, or supply chain industries more broadly.

[3] The HUBZone program's goal is to promote business growth in underutilized business zones by awarding 3% of federal contract dollars to companies that are HUBZone-certified. Joining the HUBZone program makes a business eligible to compete for certain federal contracts in the "set-aside" category. There are several required qualifications to participate in the program, but the most dispositive requirement for purposes of our analysis is that the business seeking to participate in the HUBZone program must be at least 51% owned by U.S. citizens, a community development corporation, an agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe. While it is unknown and the record is silent as to whether any federal programs exist in the "set-aside" category for endeavors like the one the Petitioner proposes, it appears as though the Petitioner's proposed endeavor would be wholly owned and controlled by the Petitioner and that the Petitioner is not a U.S. citizen, a community development corporation, an agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe. We, therefore, question whether the Petitioner would even be eligible to participate in the HUBZone program.

We have also reviewed the Petitioner's industry reports and articles, which included documents addressing topics such as labor shortages, the importance of sustainability in business, immigrant entrepreneurs, and the logistics and manufacturing industries. Additionally, we have considered the Petitioner's assertions that his proposed endeavor closely aligns with federal initiatives, which he claims underscores the strategic priority of supply chain resilience and efficiency in the United States. The articles and reports, however, provide only general background information on these subjects and do not specifically relate to or discuss the Petitioner's proposed endeavor, including how his specific endeavor might impact these areas more broadly, such that it rises to the level of national importance. While we acknowledge the overall economic importance of entrepreneurs, immigrants, sustainability in business, and the supply chain field generally, the pertinent question is not the importance of the field, 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. Simply working in an important field is insufficient to establish the proposed endeavor's national importance.

Likewise, the Petitioner's argument that his proposed endeavor has national importance due to the shortage of workers in the supply chain management field is unpersuasive. The record contains insufficient evidence that the proposed endeavor stands to impact or significantly reduce the claimed national shortage. Further, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

We have also reviewed the expert opinion letter written by an associate professor at [redacted], as well as other support letters written by the Petitioner's former work colleagues. However, they provide little explanation to establish the national importance of the Petitioner's proposed endeavor. The professor's letter comments on the Petitioner's expertise and the importance of the supply chain field generally but does not specifically discuss the Petitioner's future work or his business plan. Additionally, while the professor opines that the Petitioner's services will "significantly contribute to the nation's economy by optimizing U.S. companies' resources, increasing productivity, reducing costs, and generating revenue," the letter does not specifically detail how the Petitioner's endeavor would accomplish these goals or how any impact would extend beyond the direct clients that the Petitioner will serve. Similarly, while the support letters praise the Petitioner's personal attributes and past contributions to the workplace, they do not discuss the Petitioner's proposed endeavor or specific impact thereof, including any potential broader implications of his work. As such, the letters are not probative of the Petitioner's eligibility under *Dhanasar's* first prong.

Because the Petitioner has not established through sufficient evidence in the record that his proposed endeavor meets the first prong of the *Dhanasar* framework, he has not demonstrated eligibility for a national interest waiver. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining issues concerning whether he has established eligibility under the remaining two *Dhanasar* prongs. *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 D-L-S-*, 28 I&N Dec. 568, 576-77 n.10 (BIA 2022) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

## III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We, therefore, conclude that the Petitioner has not established that he is eligible for, or otherwise merits, a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.