U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33348649

Date: AUG. 26, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an international financial specialist, 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 that though the Petitioner qualified for classification as a member of the professions holding an advanced degree, he had not established 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 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;

[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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. Accordingly, the remaining 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.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. *See 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

According to the Petitioner's professional plan provided with the initial filing, he intends to continue working as an international financial specialist, to "apply [his] knowledge helping to stimulate the financial sector specifically through negotiations regarding the exchange rates of the market, attributing profitably to the company." He will "provide customized solutions which enable clients to meet their financial goals," manage the client's portfolio, use "technology to monitor in real time the market rate, search for reliable graphics on the exchange market to analyze the news," and contact customers "to let them know which market is more attractive for closing." The Petitioner indicates his "professional performance will exponentially impact the financial sector of the United States" by enhancing profitability of U.S. companies, increase American companies' customer portfolio, enable business growth, and improve the qualifications of America's international financial specialists. In support of his eligibility, the Petitioner submitted a resume, an expert opinion letter, recommendation letters, and an article that referenced the Petitioner and his work as a foreign exchange operational consultant.

The Director determined, in part, that the Petitioner's initial filing did not demonstrate the proposed endeavor's national importance and issued a request for evidence (RFE). In response, the Petitioner submitted additional documentation, to include an updated resume and professional plan, a new reference letter, information related to his employment and income, and correspondence from several individuals discussing possible job offers. The Petitioner indicated that he intends to perform as an international financial specialist and provide his "specialized services in Foreign Exchange Operations and Fraud Prevention to impact the financial sector through innovation in the United States." Through his "undertakings [the Petitioner] will perform beyond the work of ordinary International Financial Specialists, as [his] endeavor will innovate the financial sector through the implementation of powerful tools and techniques to manage currency risk, increase profitability, prevent financial losses due to fraudulent activities," and "drive sales and revenue growth." The Petitioner's "unique combination of [his] academic, technical, and professional experience will enable the effective implementation of these methodologies and lead to the creation and development of new technologies that will result in immeasurable contributions and impacts to the U.S. financial sector."

In denying the petition, the Director concluded that though his proposed endeavor as an international financial specialist had substantial merit, the record contained insufficient evidence to demonstrate that the prospective impact of his endeavor rises to the level of national importance. The Director found that the evidence did not demonstrate the benefit of the Petitioner's endeavor would extend beyond potential clients, employers or business partners at a level sufficient to demonstrate national importance. The Petitioner did not show that his proposed endeavor would result in significant job growth or "substantial positive economic effects" as contemplated by *Dhanasar*. *Id.* at 890. The Director acknowledged the recommendation letters and determined that the record did not contain independent and objective evidence demonstrating the Petitioner's work has potential implications that are of national importance to the United States. The Director noted the Petitioner's claim that his proposed endeavor meets the national importance prong due in part to the financial analyst demand and shortage in the United States; however, a shortage in a particular field does not render the proposed endeavor nationally important under the *Dhanasar* framework.

On appeal, the Petitioner claims that the Director made numerous erroneous conclusions of law and fact. He asserts that the RFE response included a detailed explanation of how he has made and continues to make contributions of significant impact. The Petitioner further contends the record demonstrates his proposed endeavor meets the national importance element of the first prong of *Dhanasar* because his well-rounded specialized services in foreign exchange operations and fraud prevention will benefit businesses with effective currency risk management, enhanced security measures, innovative solutions, expert advice, and networking opportunities.

Upon review, the Director properly analyzed the Petitioner's documentation and weighed the evidence to evaluate whether he had demonstrated, by a preponderance of the evidence, that he meets the first prong of the *Dhanasar* framework. In determining national importance, the relevant 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." *See Dhanasar*, 26 I&N Dec. at 889. Generally, we look to evidence documenting the "potential prospective impact" of a petitioner's work. We noted in *Dhanasar* 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 890. Although the Petitioner discusses the value and importance of international financial services, foreign exchange operations, and fraud prevention and their impact on the U.S. economy, *Dhanasar* requires us to focus on the "the specific endeavor that the foreign national proposes to undertake," not the importance of the field, industry, or profession. *Id.* at 889.

The Petitioner provided recommendation letters and documents relating to his education, professional experience, and accomplishments. However, the Petitioner's skills, expertise, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor he proposes to undertake has national importance under *Dhanasar*'s first prong. The record in its totality does not show through supporting documentation how the Petitioner's specific services stand to sufficiently extend beyond his prospective employers or clients to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not demonstrated eligibility for a national interest waiver, as a matter of discretion. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make 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 alternate issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.