U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33377187

Date: AUG. 27, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an educational consultant and researcher in geography education, 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 did not establish that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. 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. 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 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;
- 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 found that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree.[2] The issue on appeal is whether the Petitioner established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Director determined that while the Petitioner demonstrated the proposed endeavor has substantial merit, he did not establish that the proposed endeavor is of national importance, as required by the first prong of the Dhanasar analytical framework. The Director further determined that the Petitioner did not establish that he is well-positioned to advance the proposed endeavor under *Dhanasar's* second prong, or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification under *Dhanasar's* third prong. Upon de novo review, we agree with the Director's determination that the Petitioner did not demonstrate that a waiver of the labor certification would be in the national interest.[3]

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

[2] To qualify for the underlying EB-2 classification as an advanced degree professional, the Petitioner submitted academic certificates and transcripts for his master's and doctoral degrees, as well as an education evaluation for his doctoral degree. For his master's degree, the Petitioner submitted his diploma indicating he received a master's with thesis in geography teaching from [redacted] in Turkey on July 13, 2005. For his doctoral degree, he submitted his doctoral diploma indicating he completed his Ph.D. program at [redacted] on July 13, 2005, which is the same date he earned his master's degree. The doctoral diploma also indicates, "[s]ince the doctoral diploma is being prepared, this graduation temporary certificate has been issued to be replaced with the diploma." The record does not include evidence showing that this temporary certificate was replaced with the doctoral diploma. The education evaluation states it was "prepared based on scans of academic records" and that the Petitioner's "Doktora Diplomasi" is the foreign equivalent of a U.S. doctor of philosophy degree in geography education. The report did not include an evaluation of the Petitioner's master's degree. However, the record includes conflicting evidence of the date he earned his doctoral degree. While the temporary certificate indicates the Petitioner earned his doctoral degree on July 13, 2005, the Petitioner's curriculum vitae, his statements, and the education evaluation indicate he earned his doctoral degree in 2009. Moreover, the academic transcripts for his master's and doctoral degrees do not indicate the dates of attendance or completion of the degree programs. Because the Petitioner's doctoral degree is the basis for his being an advanced degree professional and the record has conflicting information on the date when he earned his doctoral degree, we cannot fully assess whether the Petitioner has the foreign equivalent of degree above that of a U.S. bachelor's degree. The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. Matter of Ho, 19 I&N Dec. 582, 591-92 (BIA 1988). However, because there are other dispositive grounds to dismiss the appeal, we will reserve the issue of whether the Petitioner has established eligibility for EB-2 classification as an advanced degree professional.

[3] While we may not discuss every document submitted, we have reviewed and considered each one.

The first prong of the Dhanasar analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner proposes to undertake. Id. The endeavor's merit may be demonstrated in a range of areas, such as business, entrepreneurialism, science, technology, culture, health, or education. 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." Id.

The Petitioner indicates that he has been self-employed since 2016 as an educational consultant who provides guidance to university graduate students and academic staff working as research assistants on the methodological approaches for their research. He states his consulting is primarily focused on statistical and spatial technology by assisting with data analysis using software that adheres to scientific research standards, proper reporting of research findings, and guidance for transforming research into academic publications. Previous to his consulting work and after earning his doctoral degree, he indicates he was a professor at [redacted] in Turkey where he taught courses and conducted research in the field of geography education.

In his petition, the Petitioner states in Part 6 that his proposed employment will be an associate professor in geography education. His initial statement indicates he intends to pursue "work in the field of geography education in the United States." To clarify his proposed endeavor, his reply to a request for evidence (RFE) states he initially intends to secure an academic position at a U.S. university where he would having a "pivotal role" in "[Geographic Information Systems (GIS)] training programs for interested teachers, students, and individuals." He states that he intends to raise community awareness about the benefits of GIS technology by training teachers who would impart the knowledge to students for use in their lives which would ultimately benefit the community. In addition, he states that he plans to continue his research and publish his findings which "will center on advancing geographic education, with a specific focus on the utilization of spatial technologies and [GIS] across diverse aspects of geography instruction." His research work will be "aimed at enhancing the knowledge, approach, and practical skills of American society in areas such as environmental sustainability, civic awareness, citizenship, and geographic literacy."

The Director evaluated the Petitioner's qualification for the national interest waiver based on his intent to work as a teacher in the field of geography finding that for *Dhanasar's* first prong, although his intent to be a teacher has substantial merit, it is not of national importance. The Director pointed out that the evidence submitted showed the importance of the field of geography, however, the Petitioner did not document that his proposed endeavor's potential prospective impact would have broader implications in his field, significant potential to employ U.S. workers, or other substantial positive economic effects.

On appeal, the Petitioner argues the Director erred in the decision by focusing on a narrow interpretation of his proposed endeavor as a teacher in the field of geography. He points out that his RFE reply explained that he intends to hold the title of associate professor at a U.S. university with a "specific focus on the utilization of spatial technologies and [GIS] across diverse aspects of geography instruction," as well as continuing his research "integrating GIS into geography education," publishing his GIS research, and "spearheading GIS training programs for interested teachers, students, and individuals." He claims his "research in geography education not only contributes to enhancing the

American educational system but also addresses the increasing demands of the U.S. job market by adequately preparing students nationwide for careers in geospatial technology."

With respect to the Petitioner's proposed teaching and training activities, while this work has substantial merit, we agree with the Director that the Petitioner has not established that his instructional and training work at a U.S. university would impact the geography field or GIS learning industries more broadly, as opposed to being limited to teachers and students at his prospective employer university. In Dhanasar, we determined that the petitioner's teaching activities at a U.S. university did not rise to the level of having national importance because they would not impact his field more broadly. Id. at 893. The benefit of someone's teaching is generally only directly beneficial to the students being taught and not the wider population. Id. Similarly, without independent, probative documentary evidence of a broader impact, the Petitioner's proposed teaching and training activities in geography education at a U.S. university do not meet the "national importance" element of the first prong of the Dhanasar framework.

For his intended research work, the Petitioner generally explains his proposed research would focus on integrating GIS to geography education and that he intends to publish his research findings. The first prong relates to substantial merit and national importance of the "specific endeavor." Id. at 889. An endeavor is more specific than a general occupation and should include details of the types of work a petitioner intends to undertake and describe specific projects and goals. See generally 6 USCIS Policy Manual F.5(D)(2), https: //www.uscis.gov/policy-manual. As a comparison, the petitioner in Dhanasar demonstrated that he intended to continue research into the design and development of propulsion systems for potential use in military and civilian technologies such as nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles. Matter of Dhanasar, 26 I&N at 892.

Here, the Petitioner did not offer a specific proposed endeavor for his intended research work as required under Dhanasar. Instead, as noted above, the Petitioner broadly claimed that his research "will center on advancing geographic education, with a specific focus on the utilization of spatial technologies and [GIS] across diverse aspects of geography instruction." He further stated his research will be "aimed at enhancing the knowledge, approach, and practical skills of American society in areas such as environmental sustainability, civic awareness, citizenship, and geographic literacy." The Petitioner did not further elaborate or identify what type of research he intends to pursue with integrating GIS in the field of geography education.

On appeal, he claims that the Director did not review the evidence submitted which shows his work is more than his intended teaching activities. However, the Petitioner's claims and evidence relating to the substantial merit and national importance of his intended research mostly explain his previous research and the importance of geography education. For instance, the record includes reference letters from his previous colleagues attesting to his teaching abilities, his positive influence on students, and his previous research which highlight the importance of geography education on global citizenship. Some reference letters from individuals in his field focus on the Petitioner's previous professional experience in research and teaching with general statements that the Petitioner has made contributions in his field in the past which would be of value to the United States. However, the letters do not identify or address his specific prospective endeavor. On appeal, the Petitioner also points to media articles and industry reports which focus on the importance of geography education and the growth

the field of geography education. However, these articles and reports also do not address the Petitioner's proposed research or his specific endeavor.

Based on the evidence submitted, the Petitioner has not established that he presented a specific proposed endeavor for his intended research in geography education as contemplated under Dhanasar. The record does not contain distinct, detailed information explaining the Petitioner's specific proposed endeavor for conducting research in the field of geography education. Instead, the Petitioner broadly claimed that he would conduct research focused on GIS integration with geography education. He did not elaborate and articulate, for example, the type of research he intended to pursue.

Because the documentation in the record does not sufficiently establish the Petitioner qualifies for the first prong of the Dhanasar precedent decision, he has not demonstrated eligibility for a national interest waiver. This identified basis for dismissal is dispositive of the Petitioner's appeal, and therefore we decline to reach and hereby reserve the Petitioner's appellate arguments and eligibility under the second and third prongs of Dhanasar. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (noting 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

As the Petitioner has not established eligibility under the requisite first prong of the Dhanasar analytical framework, he is not eligible for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.