U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33940012

Date: DEC. 2, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, who intends to engage in a Yoruba self-enrichment education endeavor, seeks second preference immigrant classification as a member of the professions holding an advanced degree, [1] as well as a national interest waiver of the job offer requirement attached to this EB-2 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 the Petitioner qualifies for classification as a member of the professions holding an advanced degree, but had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

On appeal, the Petitioner asserts eligibility for a national interest waiver.

In these proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; Matter of Chawathe, 25 I&N Dec. 369, 375 (AAO 2010). Upon de novo review, we will dismiss the appeal.

I. LAW

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. 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, grant a national interest waiver if the petitioner demonstrates that:

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

[1] The Petitioner submitted evidence that establishes he holds a Master of Science (M.Sc.) degree in Banking and Finance, awarded by [redacted] Ogun State, Nigeria, conferred in 2006, and a Master of Business Administration (MBA) degree, awarded by the [redacted] Ekiti State, Nigeria, conferred in 2003. Additional evidence provided in the educational evaluation indicates that both degrees are equivalent to master's degree programs in the United States.

- 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. The Director also determined that the Petitioner had established that the proposed endeavor met the substantial merit portion of the first prong set forth in the Dhanasar analytical framework. The Director's decision then provided a well-reasoned explanation as to why the Petitioner does not merit a national interest waiver.

Therefore, upon consideration of the entire record, including the arguments made on appeal, we adopt and affirm the Director's decision with the comments below. See Matter of P. Singh, Attorney, 26 I&N Dec. 623 (BIA 2015) (citing Matter of Burbano, 20 I&N Dec. 872, 874 (BIA 1994); see also Chen v. INS, 87 F.3d 5, 7-8 (1st Cir. 1996) ("[I]f a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings" provided the tribunal's order reflects individualized attention to the case).

On appeal, the Petitioner argues that his proposed endeavor is in the national interest, citing four White House diversity initiatives that underscore the importance of diversity, i.e. initiatives on Asian Americans and Pacific Islanders, women and girls, a task force on new Americans, and the White House Office of Public Engagement and Intergovernmental Affairs which works to engage diversity across the United States.[2]

We agree with the Director that the submitted documentation establishes his endeavor has substantial merit. In determining national importance, however, the relevant question is not the overall importance of cultural diversity, instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." See Dhanasar, 26 I&N Dec. at 889. The Petitioner must still demonstrate the potential prospective impact of his specific proposed endeavor. While the Petitioner claims that his proposed endeavor will serve our country by making a "vital contribution" to cultural diversity, citing to the four White initiatives described above, he has not demonstrated that his undertaking stands to impact his field or industry more broadly beyond the participants in his Yoruba self-enrichment educational program.

Moreover, we are not persuaded by the argument that the Petitioner's proposed endeavor has national importance due to the shortage of programs in Yoruba. In fact, on appeal, the Petitioner provided new evidence of Yoruba educational programs at eleven universities across the United States including elite ivy league universities, historically Black colleges or universities (HBCUs), and state colleges.

On appeal, the Petitioner addresses the Director's statement noting the lack of a business plan projecting staffing levels or hiring plans to demonstrate his proposed endeavor would employ a

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

significant population of workers in an economically depressed area or that his endeavor would offer a U.S. region or its population a substantial economic benefit through employment levels or business activity. The Petitioner states on appeal that he will develop comprehensive training programs for educators in Yoruba language and heritage; establish 5 new centers in "strategic" locations by 2029; engage the community; create a minimum of 50 new jobs; and achieve steady growth and financial sustainability. The Petitioner offers financial projections for years 1-5 for revenue, expenses, and net profit. However, the business plan's projections concerning the business are not supported by probative evidence to demonstrate the credibility of the hiring, financial, and growth estimates forecasted. The Petitioner does not explain how the staffing and expense forecasts were calculated. A petitioner must support assertions with relevant, probative, and credible evidence. See Matter of Chawathe, 25 I&N Dec. at 376. The business plan does not demonstrate that any benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by Dhanasar. Id. at 890. The Petitioner has not demonstrated the national importance of his proposed endeavor under the first prong of the Dhanasar analytical framework.

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. See Dhanasar, 26 I&N Dec. at 893. Here, the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his students to impact the field of cultural diversity and Yoruba heritage and language more broadly at a level commensurate with national importance. Nor has he shown that the particular work he proposes to undertake offers original innovations that contribute to advancements or otherwise has broader implications for his field.

Furthermore, the Petitioner has not demonstrated that his specific endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation directly attributable to his future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by Dhanasar. Id. at 890.

On appeal, the Petitioner also asserts that he is well-positioned for the proposed endeavor, arguing that the Director overlooked his certificate in education from the [redacted] On appeal, the Petitioner has provided evidence of the qualifications for a Yoruba instructor at the [redacted] who is also a lecturer in Afro-American and African Studies. The [redacted] instructor described in the record holds a Ph.D. in Comparative Literature and Intercultural Studies from the [redacted] and an M.A. in African Languages and Literature from the [redacted] He is from Nigeria and a native speaker of the Yoruba language. The Petitioner further provided documentation regarding qualifications of typical educators in an American state university which offers Yoruba language and culture. For example, the [redacted] Yoruba faculty brings together scholars with diverse research interests ranging from African oral literature through post-colonial African women writers offering cultural courses in literature, cinema, linguistics, and language.

In contrast to the qualifications noted above, the Director aptly noted that the Petitioner has a Bachelor of Science in Accountancy, a Master of Business Administration and a Master of Science in Banking

and Finance. Upon de novo review, we acknowledge that the Petitioner has a 1992 certificate in education from the [redacted] as well as a 1992 [redacted] Certificate and he has some experience teaching Yoruba heritage in an extramural class related to accounting and taxation at the [redacted] Campus Learning Center.[3] The bulk of the Petitioner's education and teaching experience relates to accounting, banking and finance, though we note he taught business and accounting classes in the Yoruba language. Accordingly, we find that, upon de novo review, the Petitioner has not established he is well-positioned for the proposed endeavor.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the Dhanasar precedent decision and does not establish that the Petitioner is well-positioned for his proposed endeavor, the Petitioner has not demonstrated eligibility for a national interest waiver. Since these issues are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding the remaining issues. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) ("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 met the requisite first and second prongs of the Dhanasar analytical framework, we conclude he has not established that he is eligible for, or otherwise merits, a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.

[3] A letter of recommendation from someone who took this extramural class said that the Petitioner's initiative (Yoruba Heritage in teaching) helped the recommender grasp complex concepts or ideas in Accounting and Taxation more effectively.