U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35284677

Date: DEC. 18, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner 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 Nebraska 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. 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;

[1] See Flores v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeal in concluding that USCIS' decision to grant or deny a national interest waiver to be 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.[2] The issue on appeal is whether the Petitioner has established the national importance of his proposed endeavor, as required under the first prong of Dhanasar. We conclude that he has not.[3]

The Petitioner currently works in the United States for a financial services company as its head of customer onboarding and know your client (KYC). On the Form I-140 petition, the Petitioner states he proposes to work in the United States as a KYC strategies consultant with the nontechnical job description, "developing KYC strategies for customer onboarding, addressing customer data management, due diligence[, and] preventing money laundering." This nontechnical job description is similar to the Petitioner's detailed explanation of his job responsibilities at his current employment. The Petitioner, however, did not clearly explain his proposed endeavor, instead providing general, broad statements. For instance, the Petitioner includes a general statement that he would like to bring his KYC knowledge and skills on a broader scale to the United States and its financial and banking industry, stating that he "envisions and anticipates playing both a traditional and trailblazing role in strengthening and guiding the future of KYC in the [United States]."

The Director requested further evidence to support the Petitioner's claims relating to *Dhanasar's* three prongs. In his request for evidence reply, the Petitioner provided some further details about his proposed endeavor. Speaking to the impracticality of obtaining a labor certification, he states that he plans "to cut ties with his long-time employer to embark independently on launching his proposed endeavor as a KYC/anti-money laundering (AML) entrepreneur and/or [s]trategies [c]onsultant." In anticipation of new KYC and AML regulations for the sports betting industry, the Petitioner maintains sports betting companies will need to implement changes to be compliant with any new regulations. With his KYC and AML knowledge with financial services technology, and his passion for sports tech start-ups, he claims he would be uniquely positioned "to create a single industry standard and solution for all U.S. based sports betting companies allowing them to focus on fan experience while preventing money laundering through their systems" by and through his future endeavor's KYC and AML strategies consulting. In addition, he generally mentions "actively exploring entrepreneurial opportunities in the realm of sports integrity," which is "to detect and deter fraud, match-fixing game manipulation, and other unethical or illegal betting-related activities."

In his claims of national importance, the Petitioner stresses the importance, growth, and increasing relevance of KYC and AML to the finance and banking industry, and the expected increase in demand for experienced professionals in the finance and banking and industry and in other industries. He

[2] The Director stated in a request for evidence under the heading "E21 Exceptional Ability" that the Petitioner "submitted sufficient evidence to demonstrate [the Petitioner] qualif[ied] for the classification sought E21" but provided no analysis. We agree that the Petitioner qualifies for the EB-2 classification, but as an advanced degree professional because he has earned a master of business management from a United States institution of higher education.

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

explains the importance of KYC and AML procedures and practices being "essential for enhancing national security, reducing costs, precluding criminal activity and supporting the transparency of capital flows whether domestic or across borders." Claiming his endeavor has potential broader impacts on the nation, he highlights the importance of KYC and AML to protect U.S. national security based on recent geopolitical events and sanctions, namely the conflict in Ukraine and the influx of migrants to the United States. He explains the Ukraine conflict has increased the need for KYC and AML due diligence to help banks identify and manage risks associated with international sanctions to prevent those on sanction lists from funding the Ukraine conflict and circumventing sanctions. Also, he claims the recent influx of migrants to the United States increases the need for KYC and AML to identify and prevent funding for human trafficking.

The first prong of the Dhanasar analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner proposes to undertake. 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.

Even though the Director determined that the Petitioner's proposed endeavor has substantial merit, the Director concluded the Petitioner did not establish his endeavor is of national importance. The Director found that the Petitioner did not demonstrate that his endeavor would extend beyond his managerial responsibilities to impact his field more broadly commensurate with national importance. Noting that although the record supports the importance of KYC and AML in the financial services industry, the Petitioner did not submit evidence sufficient to show the potential prospective impact of his endeavor rising to the level of national importance. On appeal, the Petitioner provides a brief statement claiming that the Director did not assess all documentary evidence or apply the appropriate legal standard under Dhanasar.[4]

Upon de novo review, the Petitioner has not demonstrated the national importance of his proposed endeavor. The Director provided a reasoned consideration to the petition and made adequate findings. The Director was not required to specifically address each claim the Petitioner makes, nor was it necessary for the Director to address every piece of evidence the Petitioner presents. See Guaman-Loja v. Holder, 707 F.3d 119, 123 (1st Cir. 2013) (citing Martinez v. INS, 970 F.2d 973, 976 (1st Cir.1992)); see also Kazemzadeh v. U.S. Atty. Gen., 577 F.3d 1341, 1351 (11th Cir. 2009); Casalena v. U.S. INS, 984 F.2d 105, 107 (4th Cir. 1993). Here, although the Director did not analyze every piece of evidence, the decision reflects a reasoned consideration of the evidence.

With respect to weighing the evidence, the standard of proof in this proceeding is a preponderance of the evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. Matter of Chawathe, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the

[4] In his Form I-290B, Notice of Motion or Appeal, the Petitioner marked that he would submit a brief and/or additional evidence within 30 days of filing this appeal. As of the date of this decision, we have not received a brief or additional evidence regarding this appeal. Our decision is based on the Petitioner's statement on the Form I-290B asserting the Director failed to assess all of the evidence, did not apply the appropriate legal standard under Dhanasar, and requested we conduct a de novo review of the Director's decision.

quality (including relevance, probative value, and credibility) of the evidence. Id.; Matter of E-M-, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, the Director, in evaluating whether the Petitioner had established that he meets the first prong of the Dhanasar framework, weighed all the evidence but determined that the evidence overall lacked probative value.

The documentation in the record does not provide sufficient details about his proposed endeavor or insight as to how the Petitioner intends to impact the fields of KYC and AML, the economy, or national security more broadly as an individual working as a KYC strategies consultant to the finance and banking industry or any other industries. The Petitioner's claims that his KYC strategies consulting activities stand to provide broader impact on his field and the nation have not been established through independent and objective evidence. The Petitioner's statements are not sufficient to demonstrate his claims and must be supported with relevant, probative, and credible evidence. See Matter of Chawathe, 25 I&N Dec. at 376. Also, without sufficient documentary evidence that his proposed job duties as a KYC strategies consultant for the finance and banking industry or any other industry would impact his field or the nation more broadly, rather than benefiting his prospective employers and his proposed clients, the Petitioner has not demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance.

In determining national importance, the relevant question is not the importance of the 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 Matter of Dhanasar, 26 I&N Dec. at 889. In Dhanasar, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." Id. We also stated 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.

To support his claims, the Petitioner submitted industry articles relating to the future of KYC compliance; trends in digital KYC implementation; KYC for banking and financial services; differences between KYC and AML; value of identity verification; importance of KYC to customer loyalty, advocacy, and business growth; the threat of Russia to the world and of its alliance with North Korea; Russia circumventing sanctions; and price caps on Russian oil. We recognize the importance and benefits of KYC and AML to the finance and banking industry and other industries. However, merely working as a KYC strategies consultant or as a KYC manager for a financial services company, or starting a KYC strategies consulting business, is insufficient to establish the national importance of the proposed endeavor. As noted above, the growth and importance of an industry or working in a field with an expected demand for workers are not sufficient to meet the national importance requirement under the Dhanasar framework. Instead of focusing on the importance of an industry or field, or a need for professionals in a field, we focus on the "the specific endeavor that the foreign national proposes to undertake" and consider the endeavor's "potential prospective impact." Id. at 889. The articles submitted do not discuss his endeavor having the claimed broader impact to his field, or the claimed economic or national security impacts specifically attributable to his proposed endeavor.

Next, the Petitioner claims his professional experience in the KYC and AMI field benefits his current employer and the finance and banking industry. The Petitioner indicates that he is ready to leverage

his experience and entrepreneurial aspirations to develop a national and international financial transactional framework as the fields of KYC and AML expand beyond the banking and finance industry to other industries. To support his claims, the Petitioner submitted recommendation letters from his colleagues to show his professional experience, skills, and knowledge in his field.

The Petitioner's reliance, however, on his professional knowledge and experience to establish the national importance of his proposed endeavor is misplaced. The letters do not discuss his proposed endeavor or show its national importance, but instead relate to the second prong of the Dhanasar framework. D*hanasar's* second prong "shifts the focus from the proposed endeavor to the foreign national." Id. The letters mainly attest to the Petitioner's professional competencies and his dedication to his employers and the field of KYC and AML. While a few recommendation letters mention that the Petitioner's work would contribute to helping his employers, an educational organization, and his field, the letters lack details of the Petitioner's endeavor and mainly describe his professional experience and generally state with broad statements that his endeavor is of importance based on his experience. The Petitioner has not offered sufficient information and evidence based on these recommendation letters to demonstrate the prospective impact of his proposed endeavor rises to the level of national importance.

Last, the Petitioner contends his endeavor is aligned with laws, regulations, and government policies mandating reporting and compliance programs to detect and prevent money laundering. However, he has not demonstrated the potential prospective impact of his specific endeavor to such nationally important matters. He uses general terms to highlight the importance of KYC and AML laws and regulations, maintaining his endeavor aligns with the U.S. government's support for transparency and regulation in the transfer of financial and digital assets. While the importance of the U.S. government policies, laws, and regulations are not in dispute, their overall significance does not establish the national importance of the Petitioner's proposed endeavor in particular. It does not follow that an individual providing KYC strategies consulting to businesses in the finance and banking industries or in any other industry has national importance. Working in or establishing a business in a field which is the subject of U.S. government laws, regulations, or policies is insufficient on its own to establish the national importance of the proposed endeavor. Instead, we focus on the "the specific endeavor that the foreign national proposes to undertake" and consider the endeavor's "potential prospective impact." Id. The Petitioner makes general statements about his KYC strategies consulting aligning with national initiatives but does not sufficiently detail his endeavor or quantify its expected impact in the identified areas of national concern, or provide objective, probative evidence to support his contentions.

The Petitioner has not demonstrated that his proposed endeavor has the potential to extend beyond his prospective employers, future clients, and consulting business to impact the field or any other industries or the U.S. economy or national security more broadly at a level commensurate with national importance. Beyond general assertions, he has not demonstrated that the work he proposes to undertake as a KYC strategies consultant offers the claimed contributions to advancements in the KYC and AML fields or otherwise has broader implications for his fields. Statements and claims alone are not sufficient to demonstrate the national importance of his proposed endeavor. Assertions made without supporting documentation are of limited probative value and do not carry the weight to satisfy the Petitioner's burden of proof. See Matter of Soffici, 22 I&N Dec. 158, 165 (Comm'r 1998). The

Petitioner's claims depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between his proposed KYC strategies consulting work and the claimed results.

The Petitioner has not established the national importance of the Petitioner's proposed endeavor as required by the first prong of the Dhanasar precedent decision, and therefore he has not demonstrated eligibility for a national interest waiver. We note that the Director determined that the Petitioner is well-positioned to advance the proposed endeavor under *Dhanasar's* second prong,[5] but, on balance, it would not 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. Because the identified basis for denial is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve his appellate arguments and determination of his eligibility under the second and third prongs of Dhanasar. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

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.

[5] Although the Director determined the Petitioner met *Dhanasar's* second prong, the decision did not provide an explanation or analysis of the evidence for this finding.