U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34809899

Date: FEB. 7, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a professor of entrepreneurship and director of entrepreneurship training programs, 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 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. 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). On appeal, the Petitioner asserts eligibility for a national interest waiver. 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. 8 C.F.R. § 204.5(k)(2).

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. 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;
- 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 immigrant classification as an advanced degree professional. Therefore, the remaining issue is whether the Petitioner has established that a waiver of the job offer requirement, and thus a labor certification, would be in the national interest. Upon de novo review, we agree with the Director's conclusion that the Petitioner demonstrated the substantial merit of his proposed endeavor, but did not establish its national importance under the first prong of the Dhanasar analytical framework.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual 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 whether the proposed endeavor has national importance, we consider its potential prospective impact. Matter of Dhanasar, 26 I&N Dec. at 889.

### A. Proposed Endeavor

The Petitioner earned a Ph.D. from [redacted] in 2016 in management, a Masters of Management Sciences at the [redacted] in 2003, and a masters of business administration from [redacted] in finance in 1997/98. The Director's decision described the Petitioner's proposed endeavor as developing approaches for promoting entrepreneurship programs that extend beyond the confines of a chosen field of study and to develop approaches for promoting entrepreneurship through curricula development policies, and training and mentoring programs for youth in order to facilitate economic growth, innovation, and career opportunities. The Director noted that the Petitioner said that he intends to pursue a position as an Assistant Professor in the United States and is most interested in pursuing a position with the [redacted] The Petitioner contends on appeal that the Director mischaracterized his proposed endeavor.

On the Form I-140, Immigrant Petition for Alien Worker, which the Petitioner filed in January 2019, he provided the following information:

Part 5 - Additional Information About the Petitioner

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

Section 11. Occupation: Researcher in Entrepreneurship

Part 6 - Basic Information About the Proposed Employment
Section 1. Job Title: Assistant Professor
Section 2. SOC Code: 19-3099
Section 3. Nontechnical Job Description: Research and develop approaches for promoting entrepreneurship through curricula development, policies, and training and mentoring programs.

In the ETA 750 Part B, the Petitioner listed his employment as a professor and director managing, developing and executing different skill development and entrepreneurship training programs for executives, government officials, youth, and people in marginalized communities. And, the Petitioner managed different consulting and research projects and taught courses, including courses in entrepreneurship, research methodology, strategic management, as well as mentoring and advising students in entrepreneurship.

B. National Importance of the Endeavor

After review, the Director concluded that the record showed the Petitioner's endeavor has substantial merit, but the Petitioner did not establish the endeavor was nationally important. Specifically, while acknowledging the importance of entrepreneurship, the Director determined that the Petitioner did not demonstrate that the broader implications of the Petitioner's specific work would impact the field of entrepreneurship at a level commensurate with national importance, or otherwise result in substantial economic effects contemplated in Dhanasar. See Dhanasar at 890. The Director found that the record did not indicate that the Petitioner's work has served as an impetus for progress in the field of entrepreneurship or affected the field of entrepreneurship education.

On appeal, the Petitioner generally asserts that the Director did not properly consider the evidence, incorrectly applied relevant laws and regulations, and relied on factual errors in their analysis of the petition. As an example of this, the Petitioner asserts that the Director repeatedly confuses the Petitioner's proposed employment with his proposed endeavor. The Petitioner relies on the Director's characterization that the Petitioner plans to be an assistant professor to support his claim that the Director did not review the evidence detailing the Petitioner's endeavor, including his goals and objectives. We observe that the Director's decision contains language explicitly referencing the Petitioner's goals and objectives discussed in the record. And throughout the petition and on appeal, the Petitioner states that he will work in the position. Based on the descriptions of the endeavor provided in both the initial filing and RFE response, as discussed above, the Petitioner is in the field of entrepreneurship and proposes to research in the area of entrepreneurship in the position of assistant professor. Even if we were to determine that the Director mischaracterized the Petitioner's proposed endeavor, based on our de novo review of the record, we conclude that the Petitioner has not demonstrated that his endeavor has national importance or that he is well positioned to advance his endeavor, as discussed below. We disagree with the Petitioner's contention that the Director's decision mischaracterized the proposed endeavor, specifically by referring to his intent to work as an assistant professor.

As the Petitioner has not shown how the Director's use of the Petitioner's position title, Assistant Professor, in referring to his endeavor has prejudiced the Petitioner, the Petitioner has not shown that

the Director failed to consider the evidence discussing the nature of his endeavor specific endeavor. It is not enough to demonstrate errors in an agency's decision; the Petitioner must also establish that they were prejudiced by the mistakes. Shinseki v. Sanders, 556 U.S. 396, 409 (2009); Molina-Martinez v. United States, 578 U.S. 189, 203 (2016); see also Amin v. Mayorkas, 24 F.4th 383, 394 (5th Cir. 2022). Similarly, the Petitioner's contention that the Director referred to the endeavor as only a profession or field is unpersuasive. After acknowledging the endeavor as described in the record, the Director did not imply that the Petitioner only proposed a field or profession, but rather explained that, when determining national importance of an endeavor, the Petitioner must establish the importance and broader implications of his specific endeavor rather than the importance of their field or profession.

Turning to our review of the record, we agree with the Director that, while the Petitioner has established the substantial merit of his endeavor, the record does not support the Petitioner's claims that his endeavor will result in broader implications to the field of entrepreneurship at a level commensurate with national importance. In Dhanasar, we considered a petitioner's teaching activities and concluded that they did not rise to the level of having national importance because they were not shown to impact a field of endeavor more broadly than the immediate effect or influence on the cohort receiving the teaching. See Dhanasar, 26 I&N Dec.at 893. The record does not adequately support that the Petitioner's entrepreneurship knowledge proliferation through their teaching and mentoring will have an impact on the field of entrepreneurship in the United States. The record does not have a cognizable or detailed plan for reaching an audience wider than the individuals the Petitioner will purportedly directly teach and mentor in the future. In examining the documentation, we observe evidence that many others study, publish, and offer their research-based perspectives on similar topics in entrepreneurship. The record contains insufficient evidence to support a finding that the Petitioner's research has offered novel insights, particularly as the record contains evidence demonstrating that other researchers have also considered similar concepts. Here, we agree that the record establishes that the Petitioner's proposed endeavor will support his intention to be an assistant professor in the field of entrepreneurship but does not show that his work will result in broader implications to the field or otherwise result in substantial positive economic effects commensurate with national importance.

On appeal, the Petitioner contends that the Director minimized the prospective impact of his work given the importance of entrepreneurship to the global economy and the economy of the United States. sector. The Petitioner's appellate brief contains considerable discussion regarding the importance of entrepreneurship to the global and American economy as described in the expert testimonials he furnished. Like the Director, we acknowledge the importance of the Petitioner's research area of entrepreneurship; however, the Petitioner cannot rely on entrepreneurship's broader impact to the United States alone to establish the importance of the Petitioner's specific work. The Petitioner should show how his specific work would result in broader implications to the entrepreneurship field at a level commensurate with national importance, or otherwise result in substantial positive economic effects.

Similarly, we conclude that the expert opinion letters provide little probative value in establishing the national importance of the Petitioner's specific endeavor, rather the letters summarize published articles and note the articles were cited by peers. For example, the expert opinion letter from Dr. S-M-M-S- focuses primarily on summarizing key articles of Petitioner rather than discussing the impact of the Petitioner's specific work, concluding that the Petitioner's research is crucial for the

global economy given the vital nature of entrepreneurship around the world. But the letter does not explain the broader implications of the Petitioner's work. On appeal, the Petitioner notes that this expert's testimonial opinion supports the claim that his proposed endeavor has national importance. The Petitioner quotes language from the expert about the promotion of entrepreneurship being crucial for America, that entrepreneurs are a pillar of the American market and create jobs, and quotes statistics about the millions of new businesses created in American each year. The expert then extrapolates that the United States "must" invest in researchers like the Petitioner who are "directly involved" in developing research and policy frameworks that promote the entrepreneurial spirit.

The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters to determine whether they support the petitioner's eligibility. Id. See also Matter of V-K-, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a noncitizen's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. Id., see also Matter of D-R-, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value).

We also agree with the Director's conclusion that the record does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." See Dhanasar at 890. Although the record discusses the economic impact of entrepreneurship field, and the collective economic impact of entrepreneurship, the Petitioner has not shown how his specific work would result in substantial economic benefits discussed in Dhanasar, or described how the his specific work will have a concrete potential prospective impact to the United States economy by having broader implications in the field, the significance to employ U.S. workers, have substantial positive economic effects particularly in an economically depressed area, or enhance societal welfare, or broadly enhance cultural or artistic achievement. Id.

The Petitioner offered evidence of his research publications and that at the time of filing his petition, his work had been cited 282 times, however he has not shown his publications has served as an impetus for progress in the field. While we acknowledge that evidence of the impact his past work has had provides a basis to suggest that his future work will have a similar impact, and this past research acclaim does not in itself establish the national importance of the proposed endeavor. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. See *1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

For all the reasons discussed, the record does not establish the national importance of the proposed endeavor as required by the first prong of the Dhanasar precedent decision.

## III. CONCLUSION

As the Petitioner has not met the first prong of the Dhanasar analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, their eligibility and appellate arguments under Dhanasar's remaining prongs. 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).

ORDER: The appeal is dismissed.