U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29137211

Date: FEB. 08, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an agronomist engineer, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or, in the alternative, as an individual of exceptional ability in the sciences, arts or business. See Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. See section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). 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.

The Director of the Texas Service Center denied the petition. The Director concluded that although the Petitioner established eligibility for EB-2 classification as a member of the professions holding an advanced degree, the record did not demonstrate her eligibility for the requested national interest waiver. 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. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.[1] 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent

[1] Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. Id.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, they 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. 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 USCIS may, as matter of discretion[2], 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.

II. ANALYSIS

The Director determined that the Petitioner qualifies as a member of the professions holding an advanced degree. The record reflects that determination.[3]

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 Director found 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 also found that although the Petitioner established that he is well positioned to advance the proposed endeavor under Dhanasar *'s* second prong, he did not establish 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.[4]

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. Matter of Dhanasar, 26 I&N Dec. at 889.

The Petitioner intends to work in the United States as an agronomist engineer. In his personal statement, the Petitioner describes his proposed endeavor, "I intend to perform as an Agronomist Engineer and provide my specialized services working in agribusiness companies, farms, and food

[2] See also Poursina v. USCIS, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

[3] To demonstrate he is an advanced degree professional, the Petitioner submitted his diploma for a title of agronomist engineer from [redacted] in Brazil, his academic transcripts, an academic evaluation, and letters from his previous employers. The record demonstrates that he holds the foreign equivalent to a U.S. bachelor's degree in agronomist engineering and at least five years of progressive experience in his specialty. See 8 C.F.R. § 204.5(k)(3).

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

industries, focusing on the turnaround, recovery, and leverage of operations, optimizing, and increasing productivity performance, and strategic planning to impact the agricultural field of the [United States]." (emphasis omitted). The Petitioner indicates that he intends to work with multiple businesses simultaneously, instead of working for one employer. He would work in partnership with small and large-sized public and private businesses to provide his professional expertise to solve agricultural problems, increase energy efficiency, and protect the environment.[5]

The personal statement indicates that his proposed endeavor would help develop regional agricultural projects that generate jobs; implement strategies ensuring food safety and quality; maximize animal and crop production by performing soil analysis and modifying environmental factors; implement crop rotation strategies to improve soil nutrient levels, break crop pest cycles, and improve soil conservation; advise on environment preservation with organic production and without the use of pesticides; develop long-term strategies to increase profitability and competitiveness of farms; develop and adopt technological solutions for sustainable farm systems; and facilitate collaboration between farm producers, processors, and buyers of crops and livestock.

We agree with the Director that the Petitioner's proposed endeavor has substantial merit.

However, the Director found that the Petitioner did not establish that his work would impact the field more broadly, stating, "Here, we find the evidence does not show that the [Petitioner's] proposed endeavor as a [sic] Agronomist Engineer stand [sic] to sufficiently extend beyond his future employer, its clientele, and its community to impact the industry more broadly at a level commensurate with national importance." Accordingly, the Director found that the Petitioner did not establish the proposed endeavor is of national importance.

On appeal, the Petitioner contends that the Director's decision has numerous errors in law and fact. The Petitioner argues that evidence in the record corroborates the broader implications in the agribusiness sector of his proposed endeavor rising to the level of national importance. He argues that that evidence in the record shows his proposed endeavor's "potential to stimulate economic growth, create jobs, enhance agricultural practices, promote sustainability, and align with government initiates such as the Agriculture Innovation Agenda and the Executive Order on Advancing Biotechnology and Biomanufacturing Innovation."

The standard of proof in this proceeding is a preponderance of 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 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 properly analyzed the Petitioner's documentation and weighed the evidence to evaluate the Petitioner's eligibility by a preponderance of evidence. Upon de novo review, we find the

[5] With his reply to a request for evidence notice, the Petitioner submitted letters from companies offering him jobs as a farm manager and as a food production manager. He also submitted email correspondence in which he expresses interest in working as a farm manager, food production operations manager, produce manager, farm sow unit manager, assistant farm manager, field supervisor, and field and agriculture equipment sales specialist. The Petitioner did not provide an explanation for these documents, except noting they are job opportunities.

Petitioner did not demonstrate by a preponderance of the evidence that his endeavor satisfies the national importance element of *Dhanasar's* first prong.

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." Matter of Dhanasar, 26 I&N Dec. at 889. Here, the Petitioner has not provided evidence specifically explaining the types of work he proposes to undertake beyond working in the occupation of agronomist engineering for agribusiness companies, farms, and food industries. When demonstrating the national importance of a proposed endeavor, a petitioner should offer details of the proposed endeavor beyond the normal duties of an occupation.[6] In Dhanasar, although the petitioner was an engineer by occupation, he discusses his specific intended work "to engage in research and development relating to air and space propulsion systems, as well as to teach aerospace engineering." Id. at 891. Here, other than listing the duties of an agronomist engineer and that the Petitioner intends to work with companies; the record lacks specific projects and goals sufficient to demonstrate the national importance of his proposed endeavor.

On appeal, the Petitioner argues that the national importance of his proposed endeavor is evident through its potential economic, environmental, and societal benefits. The Petitioner contends the environment would benefit through his implementation of agronomic engineering strategies, including crop rotation strategies, organic production methods, and soil analysis. Such strategies would improve the quality of soil fertility, crops, and food supply while reducing the risk of pests and crop diseases. He further contends that the reduction of pesticides and fertilizers on crops and food supply would promote a healthier living for people and decrease the risk of diseases caused by harmful chemicals in pesticides and fertilizer.

The Petitioner's statements in the record emphasize the potential economic impact of his proposed endeavor by creating of jobs in the agricultural field, stimulating economic growth in rural areas, and revitalizing lower income communities with employment. He further contends that improving the environment would lead to economic benefits for farm companies by increasing their profitability with the reduction of pesticide and fertilizer costs. Also, his crop rotation strategies and organic production methods "will help increase [U.S] agriculture's competitiveness in the global market" leading "to increased exports and foreign investment in the [U.S.] agricultural section, which will positively impact the overall economy."

The Petitioner's statements claiming that his work as an agronomist engineer will have economic, environmental, and societal benefit for the United States has not been established through independent and objective evidence. The Petitioner has not provided corroborating evidence, aside from claims in his statements that his proposed endeavor has the potential to provide significant economic, environmental, and societal benefits to the United States. The Petitioner's statements are not sufficient to demonstrate his endeavor has the potential to provide such benefits to the United States. The Petitioner must support his assertions with relevant, probative, and credible evidence. See Matter of Chawathe, 25 I&N Dec. at 376. Also, without sufficient documentary evidence that his proposed endeavor as an agronomist engineer for companies in the United States would impact the agronomist engineering industry more broadly rather than benefiting him, his employers, and the companies he

[6] See generally 6 USCIS Policy Manual, F.5(D)(1), https://www.uscis.gov/policymanual.

would work with, the Petitioner has not demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance.

The Petitioner's statements in the record emphasize that his academic credentials, professional experience, and past achievements show that his proposed endeavor has potential prospective impact. The Petitioner's statements submitted with the initial filing assert that his rare, specific knowledge and expertise in the field of agronomic engineering enable him to impact the United States. For instance, Counsel's letter states,

> As an Agronomic Engineer, [the Petitioner] creates the opportunity to raise the standard of living for the United States and the world. His work is a key factor in creating a healthy economy. Through the elements discussed throughout this prong – economic impacts, professional demand, talent shortage, as well as the endeavor's merit – [the Petitioner's] high level in skill will undoubtedly create sizable positive outcomes for essentially all elements established by Dhanasar – business, entrepreneurialism, science, technology, culture, health, or education – but especially technology, considering agriculture is an industry that affects essentially all aspects of our everyday lives.

However, the Petitioner's reliance on his professional knowledge and previous professional achievements and experience to establish the national importance of his proposed endeavor is misplaced. His academic credentials, professional experience, and achievements relate to the second prong of the Dhanasar framework, which "shifts the focus from the proposed endeavor to the foreign national." Matter of Dhanasar, 26 I&N Dec. at 890. The issue here is whether the specific endeavor that the Petitioner proposes to undertake has national importance under Dhanasar 's first prong. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. See id. at 889.

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. Id. at 893. The record does not demonstrate that the Petitioner's proposed endeavor will substantially benefit the field of agronomist engineering, as contemplated by Dhanasar: "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." Id. The evidence does not suggest that the Petitioner's agronomist engineering work would impact his field more broadly.

We further note that the record includes two opinions attesting to the Petitioner's eligibility for the national interest waiver, both of which include analyses of the national importance of the Petitioner's endeavor. An opinion from [redacted] associate professor for the biosystems and agricultural engineering department with the [redacted] at the [redacted] opines that the Petitioner's proposed endeavor has national importance stating, "[The Petitioner's] endeavor supports areas of national importance . . . . Hence, high skilled and experienced agricultural engineers like [the Petitioner] will help the [United States] to be more competitive in creating new solutions and opportunities, and in averting some of the risks associated with his field." The opinion explains, "[The Petitioner] . . . intends to generate significant positive

economic and social impacts in the [United States] by applying his expertise in agricultural and biological engineering, strategic planning, and agribusiness management. [The Petitioner] aims to generate significant positive economic and social impacts in the [United Staes], leading towards growth and improvement in valuable sectors of the country's economy." The opinion lists the work the Petitioner would do as an agricultural engineer for U.S. agribusiness companies, farms, and food industries, as is described in the Petitioner's statements. The opinion also describes the importance of the agriculture industry, the need for qualified agricultural and biological engineers in the United States, and how the agribusiness industry supports important U.S. government initiatives.

The second opinion from [redacted] an agronomist and a faculty member at [redacted] similarly explains that the Petitioner's area of specialization, agribusiness, is of importance to societal welfare, supports important national government initiatives, and is an area of growth with a need for qualified workers in the field. The opinion explains the importance of work performed by agriculture specialists, the growth of the agricultural industry, the need for environmental protections to economic growth, and that the Petitioner's experience in business management and agribusiness will help U.S. companies improve productivity and profitability while also enhancing the environment.

However, both opinions focus on the need for qualified professionals in the agricultural industry and how the Petitioner's professional experience makes him well positioned to help companies, instead of focusing on the Petitioner's specific endeavor and its potential prospective impact on the U.S. economy, or in the field of agronomist engineering. Stating that his work experience would benefit an important industry is not sufficient to meet the "national importance" requirement under the Dhanasar framework.

The Petitioner does not demonstrate that his proposed endeavor extends beyond his future employers to impact the field or any other industries or the U.S. economy more broadly at a level commensurate with national importance. Beyond general assertions, he has not demonstrated that the work he proposes to undertake as an agronomist engineer for agribusiness companies, farms, and food industries, offers original innovations that contribute to advancements in his industry or otherwise has broader implications for his field. The economic, environmental, and societal benefits that the Petitioner claims depend on numerous factors and the Petitioner did not offer a sufficiently direct evidentiary tie between his proposed agronomist engineering work and the claimed results.

Because the documentation in the record does not sufficiently establish the national importance of the Petitioner's proposed endeavor as required by the first prong of the Dhanasar precedent decision, he has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve review regarding his eligibility under the second and third prongs. 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 record does not establish that the Petitioner has met the requisite first prong of the Dhanasar analytical framework, we find that the Petitioner 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.