U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36242853

Date: FEB. 21, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, a pilot, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 established he was an advanced degree professional, but did not demonstrate that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. Specifically, applying the three-prong analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), the Director concluded the Petitioner did not establish that his proposed endeavor has national importance and that on balance, waiving the job offer requirement would benefit the United States.[1] 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). Upon de novo review, we will dismiss the appeal.

On appeal, the Petitioner asserts that the Director disregarded the preponderance of the evidence standard "by either undervaluing critical evidence or imposing an excessively high burden of proof." He also contends that the evidence submitted demonstrates his eligibility for a national interest waiver.[2]

We adopt and affirm the Director's decision as it relates to *Dhanasar's* first prong. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

[1] The Director determined the Petitioner demonstrated his proposed endeavor has substantial merit and that he is well positioned to advance the proposed endeavor.

[2] The Petitioner submitted additional documents with his appeal, but this evidence was already contained in the record.

We have reviewed the record and agree with the Director that the Petitioner has not demonstrated that the prospective impact of his proposed endeavor rises to the level of national importance. The record does not show that his future work would sufficiently extend beyond his clientele and students to impact the industry or the field more broadly, at a level commensurate with national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 893. While the Petitioner reiterates the importance of aviation safety and survival training as "critical elements of public welfare and national infrastructure," in determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work. Instead, the focus is on the "specific endeavor that the foreign national proposes to undertake." *Id.* at 889. The Petitioner also has not demonstrated how his proposed endeavor would have a significant potential to employ U.S. workers or otherwise offer substantial positive economic effects, such as through income or tax revenue, for the region or our nation. *Id.* at 890.

Despite his arguments on appeal, the Petitioner does not identify what "critical evidence" was not properly considered or explain why that evidence would show he satisfied *Dhanasar's* first prong. The Petitioner also has not pointed to specific examples of where the Director imposed an incorrect standard of proof. Without more, the Petitioner's appellate claims do not persuade us of any error in the Director's decision.

Because the Petitioner did not establish the national importance of his proposed endeavor as required by *Dhanasar's* first prong, he has not demonstrated eligibility for a national interest waiver as a matter of discretion. Further analysis of his eligibility under the second and third *Dhanasar* prongs, therefore, would serve no meaningful purpose. *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.