U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37092275

Date: FEB. 21, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, the owner of a car dealership, seeks employment-based second preference (EB-2) immigrant classification as an alien 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 Texas Service Center denied the petition, concluding that the record did not establish 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). 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.

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

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Director determined the Petitioner qualified for EB-2 classification as an alien of exceptional ability. The only issue on appeal is whether he qualifies for a waiver of the job offer requirement in the national interest.

In his initial letter, the Petitioner stated that he is the owner of [redacted], a limited liability corporation (LLC) and indicated he intended to continue his employment with his company. The Petitioner initially submitted the Articles of Incorporation for his company, his notice of employer identification number from the Internal Revenue Service (IRS), his 2023 federal income tax return, his diploma from [redacted], his Florida independent dealer license, automobile sales receipts, his company's land use designation, payment of local business taxes, and certificate of garage insurance. In response to the Director's request for evidence (RFE), the Petitioner submitted support letters, confirmation of the Petitioner's completion of dealer training, a certificate and articles of incorporation for [redacted], a 2022 independent auditor report on the Petitioner's company, a certification for the Petitioner's company to transfer vehicles to the Dominican Republic, bills of lading for vehicles the Petitioner's company shipped to the Dominican Republic, an Automotive Finance Corporation confidential dealer application, and international money transfer registrations.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined that the Petitioner's proposed endeavor did not have substantial merit. However, the Petitioner submitted evidence of his national and international transactions which indicate his proposed endeavor has substantial merit in the areas of business and entrepreneurialism.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that his proposed endeavor had significant potential to employ U.S. workers, had other substantial positive economic effects, or otherwise had national importance.

On appeal, the Petitioner asserts the Petitioner's "business model has led to the creation of jobs, both directly and indirectly, and has a measurable impact on the local businesses' economy." The Petitioner submits bills and support letters from other businesses that document his sales and transactions with other businesses, but do not evidence his creation of any jobs.

The Petitioner further states his proposed endeavor is to purchase salvage vehicles to rebuild them and his business provides environmental benefits by recycling and reducing the automobile industry's overall carbon impact. The Petitioner submits evidence of his purchase of individual salvage vehicles and letters from other businesses that use his services. For example, [redacted] states they refer all salvage vehicles needing rebuilding to the Petitioner's company which does "a great job." [redacted] states they work closely with the Petitioner's company in the "purchase, conversion, and sale of salvage vehicles into rebuilt ones" and the Petitioner's "expertise and professionalism have significantly contributed to the success of our business." [redacted] also praises the Petitioner's company as "an invaluable asset to [its] business." Other individuals praise the Petitioner's skills and experience and attest to his help in their purchase of automobiles. The Chief Financial Officer of the Petitioner's company also opines that the Petitioner's planned business expansion will create numerous jobs in the [redacted] area, but does not specify how many jobs would be created or indicate that this area is economically depressed. In sum, the letters submitted on appeal do not establish that his business provides environmental benefits in a manner indicative of national importance. The letters also do not indicate that the Petitioner's company has created jobs for the authors' businesses or otherwise resulted in substantial positive economic effects on a level commensurate with national importance.

The Petitioner submits his company's 2024 Business Plan and Projections, which does not indicate that the Petitioner's company will hire additional workers. The Business Plan states the Petitioner's company is expected to have a gross profit of $850,000 in the first year, but does not provide any financial information upon which this projection is based and the Business Plan's Income Statement for January through July 2024 lists the company's profit after taxes as $163,019. The Petitioner does not submit evidence that profit of either $163,019 or $850,000 is high in comparison to other car dealerships or would otherwise have a substantial positive economic effect commensurate with national importance.

In his letter submitted on appeal, the Petitioner asserts his company is a pioneer in the salvage and rebuilt automotive industry, has a positive environmental impact, is a leader in the export of high-quality rebuilt vehicles, provides door-to-door service in [redacted] and possesses expertise in biohazard vehicles. While we acknowledge these accomplishments, the record does not indicate that they have national or even global implications or otherwise have broader implications for the Petitioner's field in a manner indicative of national importance.

The record does not establish that the Petitioner's company has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. Consequently, the Petitioner has not demonstrated that his proposed endeavor has national importance.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of his specific proposed endeavor and he does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of his eligibility under the

second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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

The Petitioner has not established the national importance of his proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, he has not demonstrated that he is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.