U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29847412

Date: FEB. 22, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a treasurer and controller, seeks classification as a member of the professions holding an advanced degree. *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, concluding that the Petitioner 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. 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. Next, a petitioner must then demonstrate 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 that USCIS may, as matter of discretion,[1] grant a national interest waiver if the petitioner shows:

[1] *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).

- 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's decision did not render a determination as to whether the Petitioner qualifies as a member of the professions holding an advanced degree or as an individual of exceptional ability. Instead, the decision only addressed the Petitioner's eligibility for a national interest waiver. Therefore, the issue for consideration 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.[2]

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. *See 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

In a professional plan submitted with the petition, the Petitioner stated that he intends to work as a treasurer and controller in the United States. Specifically, he stated as follows:

> My career plan in the United States is to continue my career by working as a Treasurer and Controller. I intend to work with companies in various industries by applying my treasurer and business controllership expertise to develop feasible financial policies, negotiate debts, maximize profitability, and seize new investment and market opportunities abroad on behalf of American companies.
>
> If my waiver is granted, I will contribute directly to the business sector, helping companies plan, direct, and coordinate their financial targets. My plan is of national importance to the U.S. because there is a high demand for professionals in my field and because without proper account management and controllership, companies will not be able to properly meet their business goals and remain sustainable. Many businesses in the U.S. are struggling to find the talent they need to handle general controllership and treasurer duties. According to the Bureau of Labor Statistics (BLS), employment of finance professionals, which include treasurers and controllers is projected to grow up to 19 percent up to 2028, adding around 104,700 new jobs. This growth is much faster than the average for all occupations. I can help fill this demand by offering my readily available financial expertise.

[2] Because the Petitioner has not demonstrated his eligibility for a national interest waiver on appeal, we need not remand the decision for the Director to determine whether he qualifies for the underlying EB-2 visa classification.

My specific endeavor will potentially impact the U.S. in the following ways:

- Providing treasurer, account management and business controllership services to U.S. companies and financial departments;
- Researching financial markets, conducting financial analysis, creating as well as improving financial and controllership policies;
- Managing budgets and expense accounts;
- Negotiating debts, collections and payment plans to help improve the financial health of companies;
- Developing, improving and managing expense and collection systems to better account for all costs and obtain debt repayment;
- Analyzing budget reports, accounts and financial documents to help companies meet their goals; and
- Create U.S. jobs through managing companies' finances, allowing them to collect on debts, save money and make better investments.

The initial filing also included copies of the Petitioner's academic credentials and industry articles and reports in support of his eligibility.

The Director issued a request for evidence (RFE), noting that the Petitioner's evidence was insufficient to establish that his proposed endeavor has substantial merit and national importance. Specifically, the Director determined that the Petitioner had not thoroughly described the proposed endeavor to establish its substantial merit nor had he demonstrated that the proposed endeavor would impact the regional or national population at a level consistent with national importance. As a result, the Director requested a detailed description of the proposed endeavor in order to evaluate the Petitioner's request for a national interest waiver under the *Dhanasar* framework.

In response, the Petitioner's counsel submitted a letter claiming that the Petitioner's proposed endeavor "is national in scope" because it will "generate substantial ripple effects upon key commercial and business activities on behalf of the United States – namely, serving the financial, assets and business management and business functions [of] U.S. companies." Counsel further emphasized the Petitioner's professional history and experience, noting that he is uniquely qualified to advance his proposed endeavor.

The Petitioner also submitted an updated professional plan restating his intent to continue using his expertise and knowledge in the finance, human resources, and operations fields. Specifically, the Petitioner stated that he can "provide his expertise in financial analysis, account management, and treasurer and business controllership" because he plans to "continuously pursue technical knowledge" and "enhance[e] the skills [he] has acquired throughout his career." In support of this assertion, he submitted testimonial letters and additional industry articles and reports.

In denying the petition, the Director determined that the Petitioner provided insufficient descriptions and documentary evidence to identify his proposed endeavor with specificity, and therefore had not established the proposed endeavor's substantial merit and national importance. The Director noted that the record contained insufficient evidence to demonstrate that the Petitioner's work would impact the regional or national population at a level consistent with national importance, and further noted

that the Petitioner did not demonstrate that the benefits of his proposed U.S. employment would reach beyond his employers and their clients to affect his field or the United States more broadly. The Director further concluded that the record did not satisfy the second and third *Dhanasar* prongs, as required. *See Dhanasar*, 26 I&N Dec. at 888-91.

On appeal, counsel for the Petitioner asserts that USCIS "did not apply the proper standard of proof in this case, instead imposing a stricter standard, and erroneously applied the law, to the detriment of the Appellant." The Petitioner also asserts, through counsel, that the Director disregarded the evidence submitted, and provides a brief that emphasizes his qualifications as a treasurer and controller in the finance industry and asserts that the evidence of record establishes the substantial merit and national importance of the proposed endeavor.

For the reasons provided below, we agree with the Director that the Petitioner has not demonstrated the national importance of the proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to the standard of proof in this matter, a petitioner must establish that they meet each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I& N Dec. at 375-76. In other words, a petitioner must show that what they claim is "more likely than not" or "probably" true. To determine whether a petitioner has met their burden under the preponderance standard, USCIS considers not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

The Petitioner described his endeavor in broad terms, indicating that he intends to fill a role in the business industry and claiming he has broad knowledge in a variety of fields including banking, finance, investments, marketing, operations, sales, business administration, business analytics, business development, human resources, market research, talent development, and compliance and insurance. Overall, we have insufficient information concerning the proposed endeavor with which to determine whether it has substantial merit because the Petitioner's proposed endeavor has not been clearly defined. We therefore agree with the Director's determination that the Petitioner did not submit persuasive evidence to support a finding of substantial merit. The Petitioner bears the burden to both affirmatively establish eligibility under the *Dhanasar* framework, of which substantial merit is one piece, and establish his eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

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 Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further 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. Further, 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. 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.

We agree with the Director that the Petitioner has not provided sufficient documentation or explanation concerning how his proposed endeavor has national importance. The purpose of the national interest waiver is not to afford the Petitioner an opportunity to engage in a job search or further his own career while only adding ancillary benefits to the nation. Although he has many ideas, it remains unclear as to what specifically his proposed endeavor involves aside from securing a job as either a treasurer and controller, or in one of the numerous fields in which he claims to have broad knowledge. In *Dhanasar*, we held that a petitioner must identify "the specific endeavor that the foreign national proposes to undertake." *See id.* at 889. While it may include one or more of the positions or fields outlined above, we conclude that the Petitioner has not provided a specific or consistent proposed endeavor activity such that we can determine its national importance.

On appeal, the Petitioner contends that the Director did not duly consider certain pieces of evidence, such as his resume and experience, his professional plan, his work in the field, letters of recommendation, and industry articles and reports, and relies primarily upon the evidence and arguments previously submitted. While we acknowledge the Petitioner's appellate claims, we nevertheless conclude that the documentation in the record does not sufficiently establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* analytical framework.[3]

For example, the Petitioner submitted letters of support that speak to his character and his talents in the field. A letter from [redacted] of [redacted] endorses the Petitioner and asserts that his language skills in Portuguese and Spanish helped expand the company's business into international markets. A letter from [redacted] attests to the Petitioner's character, noting that he and his wife hosted the Petitioner in their home in [redacted] when he was a foreign exchange student from July 1996 to July 1997. Although both writers praise the Petitioner's character and language abilities, and generally state that he is experienced in the field of business, neither author discussed the Petitioner's specific proposed endeavor. Instead, the authors primarily focused on the Petitioner's character and skills. Neither the letters nor any other evidence within the record provide insight into how the Petitioner's endeavor to work as a treasurer and controller for U.S. companies will positively impact the region or the industry beyond his employers and their clients. Again, 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." *Id.*

The Petitioner also claims that his proposed endeavor has national importance because the United States faces a significant national shortage of business professionals. In addition, the Petitioner asserts that business professionals and the financial sector are extremely important to the economy and that his proposed endeavor will offer substantial positive economic impacts. In support of these arguments, he offered numerous articles and industry reports discussing the U.S. business industry and financial sector. While these articles and reports provide useful background information, we examine the endeavor itself to evaluate its broader impact. These materials do not specifically describe the Petitioner's proposed endeavor or its potential impact, but rather amount to background information

[3] While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

about general subjects. Furthermore, 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." *Id.* at 889. Here, the Petitioner has not established how his individual employment would affect national business and finance employment levels or the U.S. economy more broadly consistent with national importance. Moreover, it is important to note that the shortage of business professionals does not render his proposed endeavor nationally important under the *Dhanasar* framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner's proposal to fill a vacant treasurer and/or controller position, or a general position within the finance, human resources, or operations field at an existing U.S. company, appears to benefit the Petitioner's potential employer(s) and their clients. However, the record does not establish how providing such services working at a single company within the U.S. business industry may have "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or broader implications, such as "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90. Because the record does not establish how the Petitioner's endeavor may have national or even global implications within a particular field, broader implications, or other substantial positive economic effects, it does not establish the proposed endeavor has national importance. *See id.*

Finally, the Petitioner's reliance throughout the record on his academic achievements and prior employment history is misplaced. Although an individual's academic and prior employment history are material the second *Dhanasar* prong - whether an individual is well positioned to advance a proposed endeavor - they are immaterial to the first *Dhanasar* prong, which pertains to whether the prospective endeavor has both substantial merit and national importance. *See id.* at 888-91.

The evidence of record does not demonstrate that the endeavor realistically has significant potential to employ U.S. workers or otherwise offers substantial positive economic benefits for the United States. Consequently, the record does not establish the substantial merit or national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, and the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reason for dismissal is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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 Petitioner has not met the requisite 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.

ORDER: The appeal is dismissed.