U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37172902

Date: FEB. 26, 2025

Appeal of Texas Service Center Decision

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

The Petitioner 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 Texas Service Center denied the petition, concluding that the record did not establish the Petitioner's eligibility for the requested national interest waiver. 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). 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. *Id*.

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 qualified for the underlying EB-2 classification as an advanced degree professional. Therefore, the remaining issue is whether the Petitioner established eligibility for a national interest waiver under the *Dhanasar* framework.

The first 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.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

The Petitioner indicated that he intended to work in the United States as a logistics consultant. He asserted that, as a logistics consultant, he could play a key role in the United States economic development by increasing company efficiency; promoting the adoption of advanced technologies in supply chain management; helping companies implement sustainable practices in logistics; developing risk management and resilience strategies; and facilitating international trade to increase exports. Then, in response to the Director's request for evidence (RFE) requesting additional information on the nature of his proposed endeavor, he indicated that he intends to operate his own consulting firm to assist businesses in the logistics, transport, and cargo storage sectors, including wholesalers and manufacturing companies.

According to his business plan, the Petitioner intends to offer a variety of services, including logistics consulting, supply chain management, strategic planning, transportation optimization, warehouse and distribution center management, technology integration, risk management, and services related to customs and trade compliance. His logistics consulting services will include supply chain analysis and optimization, inventory management and control, logistics and transportation consulting, supply chain technology implementation, team training and development, and sustainability consulting in supply chain. He asserted that these services were designed to "deliver measurable results, driving cost reduction, operational improvement, and strategic decision-making," and that his services will allow businesses in these sectors to "streamline their operations and reduce costs." Additionally, the Petitioner intends to provide training to others in the field, and offer internships aimed at addressing the labor shortages in the chain management and logistic fields. Ultimately, the Petitioner asserted that his company would improve the efficiencies and effectiveness of his clients' business operations,

[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).

and generate substantial economic impact by enhancing his clients' overall operation efficiency and competitiveness.

Based on his experience and his company's service offerings, he claimed that his company is positioned to be a potential leader in the transformation of the logistics, supply chain management, cargo and storage industries, and that he is committed to providing solutions that create a lasting and positive impact on the national economy. The record reflects that the Petitioner intends to operate his company in [redacted] North Carolina due to the city's range of economic incentives which fosters growth in the logistic and manufacturing sectors, as well as central position and access to highways. Beyond its initial operations in [redacted] the Petitioner stated that he intends to expand his company's operations nationwide by first opening additional offices in North Carolina, then expanding to California, Florida, Texas, and New York.

The Petitioner claimed that his company would result in broader implications to his industry because the methodologies and innovations he intends to use can be adopted by other companies and industries, and his company intends to publish best practices and participate in conferences and workshops. Additionally, the Petitioner asserted he would share his expertise and experiences with new professionals; promote and emphasizes the development of digital skills; encourage and support new professionals interest in research and development in the field; mentor and advise individuals to set career goals; and encourage professional ethics and environmental responsibility.

In support of his endeavor, the Petitioner provided a five-year business plan, an expert opinion letter, letters of recommendation, multiple articles discussing the logistics consulting field and the impact of the logistics industry to the U.S. economy, growth trends in the ecommerce industry, logistics consulting, government fact sheets on promoting initiatives in the supply chain field, and articles discussing the impact of immigrant entrepreneurs.[2]

Upon review, the Director concluded that, while the Petitioner established the substantial merit of his endeavor, the record did not demonstrate its national importance because the prospective impact of his endeavor would not sufficiently extend beyond his clients to lead to broader implications within the industry or field. And, contrary to the Petitioner's assertions in the record, the Petitioner had not shown that any trainings or methodologies developed by the Petitioner would have a broad impact on his field. Moreover, the Director concluded the Petitioner did not establish that his endeavor has significant potential to employ U.S. workers or otherwise result in substantial positive economic effects as contemplated in *Dhanasar*.

On appeal, the Petitioner generally disagrees with the Director's conclusions, asserting that the Director did not adequately consider the national importance of his proposed endeavor, and incorrectly concluded that the benefits of his endeavor would be limited to his prospective clients. Notably, however, beyond generally disagreeing with the Director's conclusions, the Petitioner does not discuss *what* specific evidence the Director did not consider or otherwise identify a legal error in the Director's decision. And, instead of addressing the Director's specific conclusions regarding the limited impact of his endeavor, he reiterates the same claims previously made before the Director regarding the

[2] While we do not discuss each piece of evidence contained in the record individually, we have reviewed and considered each one.

national importance of his endeavor, continuing to rely primarily on the importance of the logistics and supply chain fields. As an appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision, this omission alone is grounds for dismissal. *See* 8 C.F.R. § 103.3(a)(1)(v). Nevertheless, for the reasons discussed below, we conclude that the Petitioner has not established eligibility for a national interest waiver, and will dismiss the appeal on its merits.

The standard of proof in this proceeding is preponderance of the 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). Upon de novo review of the record, we conclude the record establishes the substantial merit of the Petitioner's endeavor, but does not demonstrate, by a preponderance of the evidence, that the proposed endeavor of operating a logistics consulting business would have national importance as contemplated under the *Dhanasar* analytical framework.

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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

On appeal, the Petitioner asserts that his company directly addresses the needs of various economic sectors, including retail, manufacturing, and healthcare, and contributes to the national priority to optimize supply chains and improve efficiency across industries to enhance the U.S. economy's competitiveness. He reiterates that his company is committed to raising the standard of logistics consulting by introducing innovative practices and integrating advanced technology, and by offering comprehensive training for all employees and sharing best practices with the industry. Yet, the record does not contain an explanation or additional information discussing the prospective impact of these methodologies. The Petitioner has not explained, for instance, how any methodologies and trainings he intends to develop, even if adopted and used by his clients, compare to methodologies that are already widely available in the market to allow us to determine if his company's offerings will indeed be analogous to the "improved manufacturing processes or medical advances" contemplated in *Dhanasar. Dhanasar* at 889. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See e.g., 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).

While we recognize that the Petitioner's services may be beneficial to his prospective customers, the Petitioner has not sufficiently explained how the services offered to his clients would result in broader implications to the field. 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. *Dhanasar* at 893. Similarly, the Petitioner's services outlined in his business plan do not establish that the proposed endeavor stands to result in broader implications at a level commensurate with national importance.

We have also reviewed the industry articles and reports in the record, and conclude that they do not establish the national importance of the Petitioner's endeavor. While the governmental interest in supporting the industry may establish the substantial merit of his endeavor, the Petitioner has not shown how his endeavor would meaningfully impact the industry or the initiatives outlined in the record. As stated, when evaluating the national importance of a proposed endeavor, the industry a petitioner will serve alone is not sufficient to establish national importance, instead we focus on the broader implications of "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889.

And we agree that the record does not establish the Petitioner's endeavor would result in substantial economic benefits as contemplated in *Dhanasar*. In the business plan, the Petitioner indicated that by the fifth year of operations he anticipates generating total sales of $9,089,090 while employing 21 individuals, resulting in an annual payroll expense of $1,741,853. Notably, however, while the Petitioner identified the various positions each employee will fill, the business plan does not provide sufficient explanation for the basis of these employment projections. And, beyond providing an anticipated cost of the services offered, the business plan also does not explain the basis for the financial projections. Yet, even if the endeavor's revenue and job creation projections were sufficiently explained, they do not establish that his company would operate on a scale rising to the level of national importance. Although any basic economic activity has the potential to positively impact a local economy, the Petitioner has not demonstrated how the economic activity directly resulting from his proposed endeavor would result in substantial economic benefits contemplated in *Dhanasar*.

We have also reviewed the expert opinion letter and recommendation letters in the record, but conclude that they also do not sufficiently establish the national importance of the Petitioner's proposed endeavor. The expert opinion letter provided by Dr. S-S- primarily relies on the Petitioner's prior experience, and the importance of the logistics field, without explaining how the Petitioner's company will lead to broader implications to the field. While Dr. S-S- asserts that the company will impact the broader logistics and supply chain management fields by offering critical services to its prospective clients including addressing efficiency and effectiveness of supply chains, they do not explain how these services—even if beneficial to the company's clients— would result in broader implications at a level commensurate with national importance. Moreover, when discussing the proposed endeavor's impact to societal welfare, Dr. S-S- relies primarily on the importance and impact of broad federal endeavors aimed at improving the workforce, but does not explain how the Petitioner's company will meaningfully impact these initiatives. 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).

Similarly, while we recognize the recommendation letters on record establish that the Petitioner has extensive experience in the logistics field, they do not establish the national importance of his proposed endeavor. A petitioner's expertise and record of success are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated the national importance of his proposed endeavor. We conclude that he has not.

For the reasons discussed, the evidence 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 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. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third 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.