U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37100999

Date: FEB. 27, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, an entrepreneur in the field of digital information, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, 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. 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, an alien 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 an alien 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.

[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).

Id.

II. ANALYSIS

The Petitioner asserts on appeal that he is an entrepreneur in the field of digital information. We do not disturb the Director's conclusion that the Petitioner possesses an advanced degree. He endeavors to "be a catalyst for digital transformation across various industries in the United States." He further states that [redacted] the business of which he is the founder and CEO, is designed to address the pressing needs of businesses navigating the complexities of the modern digital economy.

The Director concluded that the Petitioner's proposed endeavor had substantial merit, but he did not establish its national importance, or that he was well positioned to advance the endeavor, or that, on balance, it would be beneficial for the United States to waive the requirements of a job offer and thus a labor certification.

A. Substantial Merit and National Importance

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.* In *Dhanasar*, we 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.

As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. Because the record reflects the proposed endeavor falls within one or more of these areas, the Petitioner established the substantial merit aspect. However, we concur with the Director that the Petitioner has not demonstrated the national importance of his proposed endeavor.

On appeal, the Petitioner generally asserts that he does not agree with the Director's decision and states that he is "confident that the enclosed documents more than adequately complement the previously submitted objective documentary evidence establishing the national importance" of his endeavor. We note that the Petitioner has submitted additional articles, studies and reports regarding the field of digital transformation on appeal. However, because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because "petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial").

The Petitioner must demonstrate that his specific endeavor would result in broader implications to the industry at a level commensurate with national importance or otherwise result in substantial positive economic effects. The Director observed that the Petitioner submitted multiple articles and studies regarding the field of digital transformation and its national importance. However, the evidence submitted did not demonstrate that the proposed endeavor had national importance because there was no significant potential to employ U.S. workers, nor did it have substantial economic effects, particularly in a depressed area. Moreover, although the Petitioner submitted a business plan which indicated that he intended to hire 25 employes over the course of 5 years in [redacted] Georgia, the Director determined that the record did not appear to demonstrate that there was an immediate demand for the company's services and that the proposed endeavor offered benefits which extended beyond the community and more broadly impact the digital transformation industry.

The Petitioner asserts he endeavors to focus his efforts on areas addressed by the Small Business Act, but 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) (an agency need not credit conclusory assertions in immigration benefits adjudications). Further, we acknowledge the Petitioner's efforts in digital transformation technology, but the Petitioner has not demonstrated that any national economic and security implications would be directly attributable to his own work.

The Petitioner indicates that his service offerings will include digital transformation strategy, project management consulting, enterprise resource planning selection and implementation, industry 4.0 solutions, process mapping and implementation, and training and education. The Petitioner asserts his endeavor aligns with federal priorities, and he cites several executive orders including Executive Order 14012 of February 2, 2021 – Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans. However, we note that this executive order was revoked on January 20, 2025. *See* https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/. Consequently, some aspects of the Petitioner's endeavor no longer align with federal priorities. We recognize the value of digital transformation, technological innovations, and the importance of emerging technologies, however, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. 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. The Petitioner asserts on appeal that he also intends to focus on artificial intelligence (AI) innovation, research and development. He further explains that his business plan supports the national strategy of maintaining American leadership in AI by investing in cutting-edge AI solutions and fostering partnerships that drive technological advancements. But here, the Petitioner has not sufficiently detailed or established how his endeavor will meaningfully impact the broad governmental initiatives of AI. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 24 I&N Dec. at 376. Further, the record does not establish that his endeavor has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *See Dhanasar* at 890. Overall, the record does not establish the national importance of the proposed endeavor, as required by the first prong of *Dhanasar*.

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional 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

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.