U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34869575

Date: JAN. 30, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a healthcare consultant, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, 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. Our precedent decision, *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 Ninth, Eleventh, and D.C. Circuit Courts of Appeal 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 Petitioner, through counsel, claims he intends to come to the United States to work as a CEO for a new healthcare consulting company that he will establish and operate. He asserts that his proposed endeavor aims to "help healthcare businesses optimize their human capital to improve performance, profitability, but most importantly enhance the allocation of resources to improve the level of care to their patients". Further, he contends the goal of his company is "to play a pivotal role in curbing healthcare expenses while safeguarding the nation's health and wellness." The Petitioner claims that his background as a physician in Brazil has given him the necessary experience to succeed in this role in the United States, teaching and training professionals and offering consulting to health professionals and organizations.

The Director determined that the Petitioner qualifies as a member of the professions holding an advanced degree, and he had established his proposed endeavor – working as a CEO of a new healthcare consultancy company – has substantial merit. However, the Director concluded the Petitioner did not establish that his proposed endeavor has national importance as required to establish eligibility for a national interest waiver under the *Dhanasar* framework. Although the Director found the Petitioner established he was well-positioned to advance his proposed endeavor, they concluded the Petitioner did not establish that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus a labor certification. We agree that the Petitioner has not established that his proposed endeavor has national importance and will dismiss the appeal accordingly.[2]

The first prong of the *Dhanasar* framework, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. 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. *Dhanasar*, 26 I&N Dec. at 889. The Director found that the Petitioner did not establish that his proposed endeavor met the national importance element of the first prong of the *Dhanasar* framework. Specifically, the Director determined the Petitioner did not establish his proposed endeavor would have broader implications to the field of medical consultancy, have significant potential to employ U.S. workers, or otherwise have substantial positive economic effects such that he established its national importance.

The record does not establish the Petitioner's proposed endeavor will have substantial positive impacts on the U.S. economy. 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 rise to the level of national importance. An endeavor may have national

[2] If the Petitioner does not meet the first prong of the *Dhanasar* framework, the evidence is dispositive in finding the Petitioner ineligible for the national interest waiver, and we need not address the remaining requirements under the second and third prongs.

importance if it "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area . . . ." *Id.* at 890. The Petitioner seeks to come to the United States to utilize his knowledge of healthcare to serve as CEO of a healthcare consultancy company, aimed at improving public health preparedness and providing economic and social benefits. He asserts on appeal that his proposed endeavor will generate jobs for U.S. workers and positively contribute to the U.S. economy. In his business plan, the Petitioner indicated his company would generate 23 jobs and have more than $1.2 million dollars in payroll expenses after the first five years of business. However, the business plan does not provide sufficient explanation for the basis of these projections. Further, even if sufficient basis were provided for the proposed endeavor's revenue and job creation projections, these figures do not establish that the Petitioner's company would operate on a scale rising to the level of national importance. The Petitioner has not explained how his proposed employment metrics and revenue would have impact beyond his business's area of intended operations. Upon de novo review, the Petitioner did not establish his proposed endeavor would have substantial positive economic effects.

Further, the evidence submitted by the Petitioner does not establish his proposed endeavor would operate on such a large scale to have a national impact on the healthcare industry. When determining the national importance of a proposed endeavor, the relevant question is not the importance of the industry, sector, or profession in which the individual will work; rather, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* 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.* The Petitioner argues that his proposed endeavor will help fill an existing need for workers in the healthcare field, through training and consultancy, as well as having a broad impact on that field. He asserts on appeal that his proposed endeavor demonstrates national importance because "[i]t addresses critical challenges in the U.S. healthcare system, has the potential to create significant jobs, aligns with national healthcare initiatives, and can contribute substantially to the nation's social and economic well-being." Additionally, he highlights the shortage of healthcare workers in the United States, inequity in access to healthcare, and the financial pressure hospitals face. He contends his consulting company will help alleviate many of these issues, through the application of his expertise in the field, workforce training and development, and advanced management consulting. Although the Petitioner's specific venture has the potential to provide valuable services to his clients, he did not establish his specific proposed endeavor will have substantial national implications or have a broader impact beyond the individuals directly served by his company. The Petitioner also has not established that his proposed endeavor stands to significantly reduce a national labor shortage in the healthcare field as claimed. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process. While we acknowledge the importance of the field of healthcare, the Petitioner did not establish his proposed endeavor would have broader implications to the overall field to establish its national importance. *See Dhanasar* at 893 (finding the petitioner did not establish that his proposed teaching activities would impact the field more broadly to rise to the level of national importance).

Accordingly, we find that the record does not demonstrate national importance of the Petitioner's 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. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining

arguments concerning eligibility under 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 that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.