U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31639847

Date: JULY 2, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a judo coach and owner of a martial arts company, seeks employment-based second preference (EB-2) immigrant classification as 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 the Petitioner qualified for EB-2 classification as an advanced degree professional, but 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. 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 EB-2 visa classification, a petitioner must establish they are a member of the professions holding an advanced degree or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[1] 8 C.F.R. § 204.5(k)(2).

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. *Id.* 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.*

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. *Id.* A petitioner must initially submit documentation that satisfies at least

[1] Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F). Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. Section 203(b)(2)(A) of the Act.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *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,[2] 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

A. EB-2 Classification

The Director determined the Petitioner was an advanced degree professional because he received a Black Belt from the International Judo Federation Academy and owned a martial arts studio in Brazil. The Petitioner submitted a certificate stating "The Brazilian Judo Confederation confers to [the Petitioner] the graduation of Black Belt 3rd DAN." The Certificate is signed by the President of the National Graduate Council of the Brazilian Judo Confederation. The Petitioner also submitted a copy of a document which appears to confer "*titulo de engenheiro têxtil*" to the Petitioner from [redacted] The Petitioner did not submit a certified English translation of the document, as the regulation at 8 C.F.R. § 103.2(b)(3) requires. The Petitioner also did not submit an official academic record or evidence that his Black Belt Certificate or *titulo de engenheiro têxtil* is the foreign equivalent of a United States advanced or baccalaureate degree, as the regulation at 8 C.F.R. § 204.5(k)(3)(i) requires. The Petitioner also did not submit evidence that a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into his occupation as a judo coach and martial arts company owner. Consequently, he has not demonstrated that he is a member of the professions pursuant to the definition of profession at 8 C.F.R. § 204.5(k)(2). The Petitioner has not established that he is an advanced degree professional and the Director's contrary determination is hereby withdrawn.

[2] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

The Petitioner initially claimed he was an individual of exceptional ability who meets five of the six regulatory criteria to establish exceptional ability. As the Petitioner is not eligible for a national interest waiver for the reasons discussed below, we do not reach and hereby reserve determination of his eligibility for EB-2 classification as an individual of exceptional ability. *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).

B. Proposed Endeavor

In his professional plan submitted initially, the Petitioner stated he would work as a judo coach and sports manager in the United States through his own company, [redacted] a limited liability company (LLC) providing specialized training programs to improve the physical and mental health of children and adults. In response to the Director's request for evidence, the Petitioner submitted a business plan for [redacted] which states the company's mission as providing "comprehensive and high-quality sports programs for schools," promoting student participation in sports and martial arts, and contributing to their physical, emotional, and social development. The business plan states the company will be initially based in the [redacted] Florida area and would expand to other areas in the future.

C. National Interest Waiver: Substantial Merit and National Importance

The first prong in the *Dhanasar* analytical framework for evaluating national interest waivers is substantial merit and national importance. *Dhanasar*, 26 I&N Dec. at 889. This prong focuses on the specific endeavor that the individual proposes to undertake. *Id.* 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 the Petitioner's proposed endeavor has substantial merit. We agree.

The Director concluded, however, that the Petitioner did not establish the national importance of his proposed endeavor. 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 other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish his proposed endeavor would sufficiently extend beyond the individuals he would serve to impact the martial arts industry or field more broadly. The Director also concluded the Petitioner did not demonstrate his proposed endeavor would have substantial positive economic effects for the nation.

On appeal, the Petitioner claims the Director disregarded his evidence and imposed a higher standard than preponderance of the evidence. Although the Director did not discuss every document submitted in detail, they listed the evidence submitted initially and in response to the RFE and analyzed the relevant evidence under the preponderance of the evidence standard. When USCIS provides a reasoned consideration of the petition, and has made adequate findings, it will not be required to

specifically address each claim a petitioner makes, nor is it necessary for it to address every piece of evidence a petitioner presents. *See Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *aff'd Morales v. INS*, 208 F.3d 323, 328 (1st Cir. 2000); *see also Pakasi v. Holder*, 577 F.3d 44, 48 (1st Cir. 2009); and *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009). De novo review of the record also reveals no error in the Director's ultimate determination that the Petitioner's proposed endeavor does not have national importance.

The Petitioner asserts the Director erroneously concluded his proposed endeavor would not have substantial economic effects because his business plan and tax records show the economic impact his company is already having in the United States. The Petitioner submitted tax records showing his company earned an income of $65,000 in 2021. The Petitioner also submitted tax records showing his company employed two other individuals and its 2022 tax return. Because these latter records are dated in 2023 after the petition was filed in November 2022, they cannot be considered in assessing the Petitioner's eligibility. Eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971) (providing that "Congress did not intend that a petition that was properly denied because the beneficiary was not at that time qualified be subsequently approved at a future date when the beneficiary may become qualified under a new set of facts."). The Petitioner did not submit evidence that his company's income in 2021 was significantly higher than similar businesses, or otherwise indicative of his proposed endeavor's potential to have a substantial positive economic effect.

In his business plan, the Petitioner stated he would be the Chief Executive Officer and Head Coach of his company. He projected his company would employ eight other individuals in the first year, increasing to 36 employees in the fifth year. The Petitioner projected earning a profit of $55,845 in the company's first year, increasing to $1,109,511 in the fifth year. The Petitioner did not show that such earnings are significantly higher than other companies in his field or would otherwise have a significant positive economic effect on a level of national importance.

The Petitioner further claims the Director disregarded the letter of Dr. A-J-R-[3], Lecturer at [redacted] New Jersey. In her letter expressing her opinion that the Petitioner qualifies for a national interest waiver, Dr. A-J-R-states "[c]oaches and scouts play a critical role in the United States economy through their contributions to the sports industry and their role as employers." She does not discuss how the Petitioner's specific proposed endeavor would make such contributions or otherwise have a significant positive economic effect indicative of national importance.

Dr. A-J-R-also opines that the Petitioner's proposed endeavor has national importance because it aligns with public health initiatives of the Centers for Disease Control and Prevention (CDC) to promote physical activity for youth. The Petitioner submitted a report from the CDC entitled *A Comprehensive Technical Package for the Prevention of Youth Violence and Associated Risk Behaviors* and a United States Department of Education report entitled *Creating Equal Opportunities for Children and Youth with Disabilities to Participate in Physical Education and Extracurricular Athletics*. These reports discuss the role of school-based programs in the health and well-being of children, but they do not mention the Petitioner or address his proposed endeavor. Our assessment of national importance does not focus on the importance of issues to the field in general, but instead

[3] We use initials to protect the identity of individuals.

"focuses on the specific endeavor that the foreign national proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889.

The Petitioner also asserts the Director disregarded evidence of "the enormous impact that [the Petitioner] is already having in the field of martial arts, the state of Florida and his community." As evidence of this impact, the Petitioner cites his past achievements, including his Black Belt and athletic titles, his tenure as President of the [redacted] Brazil, his organization of judo competitions in Brazil, his training methods addressing bullying and people with disabilities, and his project to help at-risk children through martial arts. We do not discount the Petitioner's lengthy career and numerous achievements. However, his past accomplishments are relevant to the second *Dhanasar* prong which considers whether a petitioner is well-positioned to advance the proposed endeavor. The evidence of the Petitioner's past achievements in his field does not establish that the impact of his proposed endeavor would extend beyond the individual students his company would serve to have broader implications for the martial arts industry.

The Petitioner claims the Director did not consider letters from colleagues praising his past work. For example, A-M-C-, President of the [redacted] in Brazil detailed the Petitioner's duties and accomplishments with the [redacted] from 2008 to 2021 and described him as an "exemplary professional" from whom "U.S. athletes would greatly benefit." S-A-B-, President of the [redacted] praises the Petitioner's work as president of the [redacted] and states he formally recognized the Petitioner's contributions with a tribute certificate in 2019. S-A-B- concludes by "validat[ing] the qualities of [the Petitioner], whether in people management, management of large sporting events, technical quality, training of his team ... etc." (ellipses in original). Dr. I-R- described his partnership with the Petitioner on sports medicine initiatives and recommends him "for the development of martial arts in the United States of America." The support letters from the Petitioner's colleagues praise his past accomplishments, skills and experience, but do not address the national importance of his specific proposed endeavor. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it relates to U.S. strategic interests).

The Petitioner further asserts that letters from his students and their parents demonstrate the substantial contributions he has made to his field. For example, E-H-M-F- credits the Petitioner's [redacted] program with preparing her to win numerous championships and changing her life and the lives of many other children the program served. She expresses confidence that the Petitioner's work "will be successful wherever he implements it ... especially in high-risk environments." L-C-B-R- states he saw "remarkable improvements in all aspects of [his] son's life" after his son enrolled in the Petitioner's martial arts program for children with intellectual disabilities. He expresses his confidence that the Petitioner's program can be applied to other people with Down's syndrome and "would cause an extremely healthy revolution in the quality of life of all patients with this syndrome." While the Petitioner's students and their parents praise the Petitioner's work and his positive impact on their lives, they do not address how his proposed endeavor would have broader implications in his field beyond the individual students his company would instruct. 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. Here, the Petitioner has not established that his proposed endeavor would sufficiently extend beyond his clientele to impact his field more broadly at a level commensurate with national importance.

In sum, the relevant evidence demonstrates the substantial merit of the Petitioner's proposed work in his field but does not establish his specific proposed endeavor would have significant potential to employ U.S. workers, other substantial positive economic effects, national or even global implications within the field, or other broader implications indicating national importance. Consequently, he does not meet the first prong of the *Dhanasar* framework.

D. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of his proposed endeavor and does not meet the first *Dhanasar* prong. 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. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7.

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.