U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31569895

Date: JULY 2, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an agricultural and food science technician, 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 the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree, but he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The Director dismissed the Petitioner's subsequent motion to reopen and reconsider. 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

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,[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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 submitted evidence that he holds the equivalent of a United States baccalaureate degree and over five years of progressive experience in agriculture. The Director determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. *See* 8 C.F.R. § 204.5(k)(2) (stating a foreign equivalent of a United States baccalaureate degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree). The only issue on appeal is whether he qualifies for and merits a waiver of the job offer requirement in the national interest.

In his Autobiographical Statement submitted initially, the Petitioner stated his desire to continue his work in agriculture and food science and become a successful entrepreneur in the United States. In response to the Director's request for evidence, the Petitioner submitted a business plan for a halal meat and dairy farm of which he would be the owner and Chief Executive Officer (CEO). In the business plan, the Petitioner states his farm would be located in New York state and produce halal-certified meat and dairy products for consumers. In addition, the farm would practice environmental sustainability and community engagement.

The Director determined the Petitioner's business plan was a material change to his initial proposed endeavor that was submitted after the petition was filed and could not be considered. On appeal, the Petitioner asserts that his business plan was submitted in response to the Director's request to provide future business plans and should not have been disregarded. The Petitioner's business plan is consistent with his initial proposal to become an entrepreneur in agriculture and food science. Upon de novo review, we have fully considered the business plan in our assessment of the Petitioner's eligibility.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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.* 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 has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that his proposed endeavor would have broader implications in his field or substantial positive economic effects.

On appeal, the Petitioner asserts his proposed endeavor has national importance because it will address the escalating demand for halal-certified food. The Petitioner states he will "harness the immense potential of a growing market while simultaneously meeting the ethical and religious expectations of consumers." The Petitioner submitted articles discussing the large gains of halal food in the United States restaurant market, the halal food market and industry, and the halal meat trade in the United States. These articles address the growth of the halal food market and industry, but they do not mention the Petitioner or his proposed endeavor. Our assessment of national importance does not focus on the importance of a field in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889.

The Petitioner also claims his proposed endeavor would have "broad-reaching economic effects." The Petitioner's business plan contains a chart listing earnings of $1,147,100 in the first year, but no gain, and earnings increasing to $8,005,146 with a 22.6 percent gain in the eleventh year of operation. The business plan does not explain how the earnings were calculated, provide comparative information of farm earnings in New York, or otherwise show that such earnings would be considered substantial. The business plan states the farm would employ 3 people the first year and increase staff to 14 in the eighth year of operation. The business plan does not indicate that the farm has significant potential to employ U.S. workers or that it would have other substantial positive economic effects as contemplated in *Dhanasar*.

The Petitioner further asserts his farm will make "a positive societal impact through the production of valuable agricultural goods" and "will not only align with the requirements of religious compliance and ethical considerations but also address critical aspects of consumer confidence, health, safety, and market competitiveness." The Petitioner's business plan states his farm would engage in important measures such as halal certification, quality control, environmental sustainability, animal welfare, and food safety, but the Petitioner does not demonstrate how such measures would have national or even global implications in agriculture or food science. *See id.* at 889 (citing improved manufacturing processes or medical advances as examples of national or global implications within a particular field). The Petitioner also does not establish that his farm's work would otherwise extend beyond his individual consumers to impact agriculture or food science more broadly on a level of national importance. *Cf. id.* at 892 (citing media articles and other evidence documenting Congressional interest in Dhanasar's research).

The Petitioner also claims his farm will meet the demand for halal products in New York and would expand operations to New Jersey in the future. The Petitioner did not submit evidence showing his farm's production would meet the demand for halal products in New York or New Jersey in a manner that would extend beyond individual consumers to impact the halal products industry more broadly. 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 agriculture or food science more broadly at a level commensurate with national importance.

Although the relevant evidence establishes the substantial merit of the Petitioner's proposed endeavor, it does not demonstrate the Petitioner's 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.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of his specific proposed endeavor and he does not meet the first prong of the *Dhanasar* framework. 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. 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

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.