U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31282117

Date: JUL. 09, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an aircraft mechanic, seeks classification as a member of the professions holding an advanced degree or of exceptional ability. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this employment based second preference (EB-2) classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. *See id.; 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

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.

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

As neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that USCIS may as a matter of discretion grant a national interest waiver of the job offer, and thus of the labor certification, to a petitioner classified in the EB-2 category if they demonstrate that (1) the noncitizen's proposed endeavor has

both substantial merit and national importance, (2) the noncitizen is well positioned to advance the proposed endeavor, and (3) that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *Id.*

The first prong, substantial merit and national importance, focuses on the specific endeavor the noncitizen 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.

The Petitioner intends to work as an aircraft mechanic repairing mechanical problems in aircrafts so airlines can maintain strict flight schedules and deliveries. He will use his experience in aircraft maintenance "to help small and medium-sized enterprises in the United States improve operations and achieve better productivity, generating revenues within the country."

In response to the Director's request for evidence (RFE) regarding the proposed endeavor, the Petitioner submitted his resume, a professional plan, an expert opinion letter, and reference letters, among other documents. The Director determined that the proposed endeavor had substantial merit and that the Petitioner was well-positioned to advance the proposed endeavor. However, the Director concluded that Petitioner had not established the national importance of the endeavor, the first prong in the *Dhanasar* analysis, because he had not shown how his endeavor would have a national impact.

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. Although the Petitioner contends that there is a "rising affluence of air travel" and there has been an "increase in aviation infrastructure driving the growth of aviation industry," the matter here is not whether the aviation industry is nationally important and poised for growth. Rather, the Petitioner must demonstrate the national importance of his specific proposed endeavor of providing aviation mechanical services to an aircraft company. The Petitioner relies on the importance of the aviation industry in general rather than establishing the national importance of his endeavor as an aviation mechanic.

Moreover, the Petitioner stresses his "expertise" and "specializations in Line Maintenance" and emphasizes that "his work extends beyond that of an ordinary aircraft mechanic." However, the Petitioner's knowledge, skills, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong. Similarly, the Petitioner also argues the submission of the many reference letters details his exceptional skills. Although the letters discuss the Petitioner's particular services with clients and colleagues, including working on a training program and his specific mechanical skills, the letters do not show the broader impact of the Petitioner's work rather than limited to specific services. Moreover, the letters cover the Petitioner's prior work and accomplishments and relate more to the second prong rather than the first prong of the *Dhanasar* framework. *Id.* at 890.

Further, the Petitioner presented a letter from [redacted] Ph.D., Associate Chair, Aerospace Department, [redacted] who found the Petitioner's proposed endeavor has national importance. The letter discusses the importance of improving the production processes and

optimizing current resources of U.S. aircraft companies, rather than focusing on the national importance of the Petitioner's specific, proposed endeavor. In addition, the letter does not explain how the Petitioner's particular services would have broader implications for our country. Further, similar to the above, this letter emphasizes the Petitioner's knowledge and certifications in the aviation industry relating to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong. Here, the Petitioner has not shown the broader impact of the proposed endeavor.

Another way to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement it to look at evidence documenting the "potential prospective impact" of the work. *Id.* at 889. Here, the Petitioner did not demonstrate how his services would largely influence the aviation field and rise to the level of national importance. In *Dhanasar*, we determined 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. The Petitioner explained that he will train aircraft mechanics, but the record does not show how his endeavor sufficiently extends beyond the prospective aviation company or other mechanics that he trains, to impact the field or the U.S. economy more broadly at a level commensurate with national importance.

Finally, the Petitioner did not show how the aircraft mechanic position has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. While the Petitioner makes general claims regarding his expertise "which allows aircrafts to transport goods and people," the Petitioner did not sufficiently explain or demonstrate how his particular proposed endeavor would have any projected U.S. economic impact or job creation. Without such evidence, the record does not show any benefits to the U.S. regional or national economy resulting from his services or position would reach the level of "substantial positive economic effects" as contemplated by *Dhanasar*. *Id.* at 890.

Because the documentation in the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of the Petitioner's eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose, as well as a review of the Petitioner's qualification for the underlying immigrant classification.[1]

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

[1] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where applicants do not otherwise meet their burden of proof).

matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.