U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30840272

Date: JUL. 11, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an aviation supply chain director, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. 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 the Petitioner's eligibility for the requested national interest waiver. 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 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.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner proposes to create [redacted] company, providing a combination of industry-specific outsourced tasks such as "sourcing, purchasing, maintenance, overhaul management, logistics, clearance, assessment, eligibility, airworthiness, and traceability." This endeavor will be a service suite and will manage all aircraft related components and parts, from repair and purchasing to sourcing and returns.

After reviewing the entirety of the record, we agree with the Director's conclusion that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that the waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

On appeal, the Petitioner contends that the Director misapplied the preponderance of the evidence standard and did not review the entirety of the evidence submitted for the national interest waiver. As the Petitioner asserts, the standard of proof in this proceeding is preponderance of the evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.*; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Upon de novo review of the record, we agree with the Director's evaluation of the evidence, and conclude it does not establish, by a preponderance of the evidence, that the Petitioner's proposed endeavor has national importance as contemplated under the *Dhanasar* framework.

The first *Dhanasar* prong, 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. *Dhanasar*, 26 I&N Dec. at 889. The Director correctly concluded the proposed endeavor has substantial merit because it falls within one or more of these areas.

Next, we look to national importance, and we focus on "the specific endeavor that the foreign national proposes to undertake," not the importance of the industry or profession in which the individual will work. *See Dhanasar*, 26 I&N Dec. at 889. The record includes, but is not limited to, a detailed resume,

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

business plan, documentation of the Petitioner's work in the field, recommendation letters, and articles and reports from the field of aviation supply chain management.

The Petitioner contends that the articles and industry reports discussing the prominence of various initiatives, such as "*Worker Shortages, Supply Chain Crisis Fuel 2022*" and "*16 Entrepreneurship Trends for 2022/2023*" support his assertion of the national importance of the proposed endeavor. However, the matter here is not whether these initiatives, as well as the topics of aviation supply chain logistics, or similarly related subjects, are nationally important. Rather, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of providing his services as a supply chain director through his company in the [redacted] Florida and then in the [redacted] metropolitan area. In the instant matter, the articles submitted regarding the supply chain problems and solutions do not establish the national importance of the proposed endeavor. Further, the Petitioner's reliance on reports regarding entrepreneurship in the immigrant community such as "*55% of America's Top Starups Were Founded by Immigrants*" address the benefits that the foreign-born bring to the United States, but not the Petitioner's specific endeavor or how [redacted] is nationally important.

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. Although the Petitioner's statements reflect his intention to provide a "valuable partner for aircraft-maintenance vendors, which will simplify and increase the efficiency of a business process that has been one of the most challenging and resource-consuming in delivering services" he has not provided sufficient information and evidence to demonstrate that the prospective impact rises to the level of national importance. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

Moreover, the Petitioner stresses that his "unparalleled knowledge of the industry logistics, players, resources, and regulatory framework" make him "a renowned specialist in sourcing procurement, and logistics of aircraft parts for maintenance, repair and overhaul." 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 not whether the Petitioner has the experience and capabilities to provide those services.

Similarly, the Petitioner asserts that the submission of the letters of recommendation address the impact of his work in the field. The letter from the Petitioner's current employer, [redacted] discusses the Petitioner's "knowledge in projects of cost reduction and increase of productivity." Another letter from [redacted] affirms that the Petitioner's "knowledge and skills in the filed are second-to-none." A third letter from [redacted] states that the Petitioner's ventures will be, "instrumental to the development of many sectors for American companies generating business, taxes and jobs across the nation." Although the letters refer to the Petitioner's particular services with his

colleagues and current employer, the recommendations do not show the broader impact of the Petitioner's work and is limited to his specific collaborators. In the same way, the fact that the Petitioner has many certifications and years of experience, does not indicate the national impact of his proposed endeavor. The letters of recommendation and certifications pertain to the Petitioner's prior work and accomplishments and relates more to the second prong rather than the first prong of national importance of the *Dhanasar* framework. *Id.* at 890.

The Petitioner also contends that his proposed endeavor can alleviate the "impending shortage of business professionals that the United States is already beginning to face…" The alleged shortage of occupations or occupational skills does not render his proposed endeavor nationally important under the *Dhanasar* framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

Another factor in evaluating whether the Petitioner's proposed endeavor satisfies the national importance requirement is the "potential prospective impact" of the work. *Id.* at 889. Here, the Petitioner did not demonstrate how [redacted] would largely influence the 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 record does not show through supporting documentation how the Petitioner's endeavor sufficiently extends beyond his prospective clients or employees, to impact the field or the U.S. economy more broadly at a level commensurate with national importance.

Finally, while he provided a business plan for the proposed company, the Petitioner did not present supporting evidence to corroborate the assertions and figures. Moreover, the Petitioner did not demonstrate how his business plan's claimed revenue and employment projections, even if credible or plausible, have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Although the business plan forecasts $8 million in revenue in year 5, the Petitioner did not establish the significance of this data to show that the benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Similarly, even though the business plan claims the creation of 21 direct job opportunities in year 5, the Petitioner did not demonstrate the relevance of these numbers and show that such future staffing levels would provide substantial economic benefits to the [redacted] Florida or [redacted] regions. The Petitioner, for instance, did not establish that such employment figures would utilize a significant population of workers in the area or would substantially impact job creation and economic growth, either regionally or nationally. For all these reasons, the record does not demonstrate that, beyond the limited benefits provided to its prospective clients and employees, the Petitioner's proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

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.[2]

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. 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.

[2] *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).