U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31678662

Date: JUL. 15, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a commercial administrator with a focus on logistics, 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 the Petitioner did not establish eligibility for a national interest waiver. 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.

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. [1] 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.

[1] The Director found the Petitioner established eligibility for the underlying EB-2 immigration classification and we agree.
[2] *See also 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v. Garland,* 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

Id.

The Petitioner intends to "work as a Coordinator or Manager or Director and/or consultant in the field of Logistic[s] applied to the Mass Consumption Products Industry in the United States." On appeal, as it specifically relates to the first prong of the *Dhanasar* analytical framework, the Petitioner claims the Director failed to recognize his concrete achievements and the broader implications of his proposed endeavor as Logistics Manager and Consultant. He asserts his proposed endeavor "goes beyond benefiting just his immediate clients"; he plans "to revolutionize logistics and supply chain management by implementing cutting-edge technologies like SAP PM, externalizing fleets, and reengineering supply chain methodologies"; and "these innovations have the potential to significantly impact the logistics field, leading to cost savings for businesses across various industries." Regarding the potential economic impact of his endeavor, the Petitioner emphasizes his overall expertise in the logistics field and past achievements, such as "reducing distribution costs by 30% and optimizing transportation routes by 25%"[3] and contends that these achievements "directly translate into substantial economic benefits, including cost savings for businesses and increased competitiveness in the global market." The Petitioner notes the Director questioned the link between his endeavor and government initiatives aimed at strengthening supply chains and argues that his contributions "can help create a more robust and efficient supply chain infrastructure, supporting the government's goals in this regard."

Upon review, we adopt and affirm the Director's decision as it relates to prong one of the *Dhanasar* analysis regarding substantial merit and national importance. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted this issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight U.S. Court of Appeals in holding the appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). The Director reviewed all material submitted with the initial filing and in response to a request for evidence, such as the Petitioner's professional plan, assertions regarding his intended work with future clients, and an Expert Opinion letter; analyzed the Petitioner's national importance claims under the first prong of *Dhanasar*; and discussed their deficiencies in detail.[4]

Here, the Petitioner must establish the national importance of his proposed endeavor rather than the importance of logistics and supply chain management. 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." *Id.* at 889. Further, "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.* Also, "[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.

[3] Regarding the Petitioner's claims about his expertise, those relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *See Dhanasar*, 26 I&N Dec. at 890.

[4] The Director concluded the Petitioner established the substantial merit of his proposed endeavor and we agree.

Upon review of the record, we agree with the Director that the Petitioner has not established his proposed endeavor sufficiently extends beyond his future clients to impact the industry or the field more broadly, at a level commensurate with national importance. Because the Petitioner did not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, he has not demonstrated eligibility for a national interest waiver, as a matter of discretion. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose. *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 an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.