U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31109960

Date: JUL. 16, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a computer and information systems manager, 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 Form I-140, Immigrant Petition for Alien Workers (national interest waiver), concluding the Petitioner had not established 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.

I. LAW

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 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. 8 C.F.R. § 204.5(k)(2). Exceptional ability in the sciences, arts, or business means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2).

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate 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. EB-2 CLASSIFICATION

The Director determined that the Petitioner is an advanced degree professional because he has the foreign equivalent of a U.S. bachelor's degree followed by five years of progressive experience in the specialty and thereby qualifies for the underlying EB-2 visa classification under section 203(b)(2)(A) of the Act.

A. Advanced Degree Professional

Based on our de novo review of the Petitioner's diploma, transcript, and credential analysis, we agree that the Petitioner's five-year engineering degree obtained in 2012 is equivalent to a U.S. bachelor's degree.

However, the Petitioner has not established he has five years of progressive experience in the specialty. According to 8 C.F.R. § 204.5(g)(1), evidence relating to qualifying experience or training shall be in the form of letter(s) from current or former employer(s) or trainer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the petitioner or of the training received. The Petitioner submitted a translation of his employment and social security booklet, which lists his employer names, their taxpayer IDs, their address, their specialization, the Petitioner's job title, his dates of employment, and his compensation. However, the documents are not in the form of letter(s) from his current or former employer(s) or trainer(s) and do not describe the duties he performed or training he received and therefore do not meet the requirements of 8 C.F.R. § 204.5(g)(1). The Petitioner also submitted a letter by a former employer to establish he has five years of progressive experience in the specialty. However, the letter only provides the Petitioner's title and the date he began employment. The letter does not include the name and title of the writer, does not provide the full dates of employment, does not specify whether the Petitioner worked full time, and does not include a specific description of the duties performed by the Petitioner or of the training he received to meet the requirements of 8 C.F.R. § 204.5(g)(1).

The Petitioner asserted in the record below that he has an engineering degree and a masters of business administration (MBA) certificate, which establishes he holds a degree above that of a U.S. bachelor's

[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).

degree. As discussed above, he established his engineering degree amounts to that of a U.S. bachelor's degree. However, the Petitioner has not established he has a graduate degree. He submitted a certificate demonstrating he enrolled in a lato sensus course in 2016 titled, "executive MBA in administration: information technology management." According to the record, the course duration was approximately one and a half years. Information from the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE) provides:[2]

> Professional development and specialization programs are considered lato sensus (wide sense graduate-level programs) and follow independent legislation. Such programs lead toward professional certificates, not graduate degrees. They require 1 to 2- or 1- to 3- years of study.[3]

For these reasons, the Petitioner has not established that he is an advanced degree professional and we withdraw the Director's determination to the contrary.

B. Exceptional Ability

The Director did not analyze whether the Petitioner qualifies for EB-2 visa classification as an individual of exceptional ability in the sciences, arts, or business. The Petitioner generally asserted before the Director that he qualifies for the underlying immigrant classification as an individual of exceptional ability without further discussion. The Petitioner does not make this assertion on appeal. As the Petitioner has not demonstrated the national importance of the proposed endeavor, as outlined below, we reserve the Petitioner's arguments regarding whether he qualifies for EB-2 visa classification as an individual of exceptional ability. 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 alternative issues on appeal where an applicant is otherwise ineligible).

III. NATIONAL INTEREST WAIVER

The Director determined that although the Petitioner established he was an individual well-positioned to advance his proposed endeavor and his proposed endeavor has substantial merit, he did not demonstrate that he merits a discretionary waiver of the job offer requirement "in the national interest" because he did not establish that his proposed endeavor has national importance and that on balance waiving the job offer requirement would benefit the United States. On appeal, the Petitioner submits a brief, and a copy of the initial brief filed with his petition, and his response to the Director's request for evidence (RFE).

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[2] EDGE is a non-profit, voluntary association of more than 11,000 professionals in more than 40 countries. See AACRAO, Who We Are, https://www.aacrao.org/who-we-are. We consider EDGE to be a reliable source of information about foreign credential equivalencies. See Confluence Intern., Inc. v. Holder, Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); Tisco Group, Inc. v. Napolitano, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); Sunshine Rehab Services, Inc. No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). See also Viraj, LLC v. Holder, No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013).

[3] AACRAO, Brazil, https://www.aacrao.org/edge/country/brazil (last visited July 16, 2024, and incorporated into the record).

The first prong of Dhanasar, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. Matter of 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. According to the Petitioner's professional plan, his proposed endeavor is to manage information technology (IT) projects. In doing so, he intends to use his 20 years of IT expertise, people management, and work with multidisciplinary teams to contribute to the growth, development, and productivity of new professionals and companies, and thereby boost the U.S. economy. The Director determined the Petitioner established that his proposed endeavor has substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Id. "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. at 890. In response to the Director's RFE, the Petitioner identified the following evidence as establishing his endeavor's national importance: his proposed plan, an expert opinion letter, recommendation letters from former colleagues, his resume, and industry reports and articles. In determining the Petitioner had not established the national importance of his endeavor, the Director explained that, while the Petitioner's professional plan addressed the importance and economic impact of the Petitioner's field in general, it did not explain how his specific endeavor has national importance, would result in substantial positive economic effects, or otherwise stands to have broader regional or national implications in the IT industry. The Director also determined that the submitted articles and reports regarding the industry again did not discuss the Petitioner's specific endeavor and thereby did not establish its national importance.

On appeal, the Petitioner asserts that the Director's decision does not reflect consideration of the totality of the evidence submitted with the petition and in response to the Director's RFE. Although we acknowledge that the Director did not discuss all of the relevant evidence, the decision reflects an analysis of the totality of the evidence as it pertains to national importance and the Petitioner does not explain on appeal how the contents of the specific evidence she asserts was not considered would establish national importance. 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). Upon de novo review, the Director did not err in the ultimate determination on national importance, as discussed further below.

The Petitioner's expert opinion letter, dated August 2022, discussed but does not establish the national importance of his endeavor. The author first raised the importance of the field of IT project management. While we recognize the value of IT services; merely working in an important field is insufficient to establish the national importance of the proposed endeavor. See Matter of Dhanasar, 26 I&N Dec. at 889 (explaining that in determining national importance, we do not focus on the importance of the field, industry, or profession in which the individual will work but on "the specific endeavor that the foreign national proposes to undertake"). The author also highlighted the professional shortages in the IT industry and asserted the Petitioner's proposed endeavor will help in

alleviating the shortage. However, the author does not explain how the Petitioner's proposed endeavor will alleviate the national shortage and neither does the record below. Furthermore, alleged shortage of occupations or occupational skills does not render a 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. The author also stated that the Petitioner's proposed endeavor has significant potential to generate jobs and tax revenue, to strengthen the growth and profits of U.S. companies, and to advance the field of IT Project Management, but does not provide details on how the Petitioner's endeavor would have these impacts to the economy or the field. We acknowledge the author's explanation that the Petitioner will apply his extensive experience in IT Project Management in both national and international scenarios and use his skills in IT Project Management to help U.S. companies increase their sales, improve their internal and external processes, expand their business, and reduce business costs. However, even if the Petitioner had presented evidence to demonstrate these claims, which he does not, the author does not explain how these benefits would extend beyond the organization the Petitioner would be assisting and its clients to impact the industry or field more broadly. See id. at 893 (determining the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly).

The Petitioner also provided recommendation letters from colleagues, who attested to the quality of the Petitioner's work and experience, and his resume. He asserted the evidence demonstrated the impact of his work in the field. Although the letters praise his qualifications and professional accomplishments and his resume identifies his skills and experience, they do not evidence the broader impact of the Petitioner's work. Moreover, the Petitioner's skills, expertise, and abilities relate to the second prong of the Dhanasar framework, which "shifts the focus from the proposed endeavor to the foreign national." Matter of Dhanasar, 26 I&N Dec. at 890.

The Petitioner submitted industry reports and articles discussing, e.g., the U.S. government's prioritization of science, technology, engineering, or mathematics fields, the role of IT project managers, the IT services market, the economic benefits of the IT industry. However, the matter here is not whether IT initiatives or the field is nationally important. Rather, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of managing IT projects to contribute to the growth and development of new professionals and companies and to help them increase productivity and revenues, thereby boosting the U.S. economy. We therefore agree with the Director that these articles do not establish the national importance of the Petitioner's particular endeavor.

The Petitioner has therefore not demonstrated how his proposed endeavor's impact would extend to the broader field or industry sufficient to establish its national importance.

For the reasons discussed above, we conclude the Petitioner has not established his proposed endeavor is of national importance and that he is eligible for a national interest waiver. We therefore reserve our determinations regarding whether the Petitioner has demonstrated the second or third Dhanasar prongs. See INS v. Bagamasbad, 429 U.S. at 25; see also Matter of L-A-C-, 26 I&N Dec. at 526 n.7 (BIA 2015).

IV. CONCLUSION

The Petitioner has not established that he is eligible for the underlying EB-2 classification as an advanced degree professional. Further, he has not met the requisite first prong of the Dhanasar analytical framework and has not established that he merits, as a matter of discretion, a national interest waiver of the job offer requirement attached to this classification.

ORDER: The appeal is dismissed.