U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31741728

Date: JULY 17, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a retired police colonel and risk management auditor, 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 determining 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 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 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.

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:

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- 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

In his response to the Director's request for evidence, the Petitioner describes his proposed endeavor as providing consulting and advisory services to public and private entities on money laundering and drug trafficking. The Petitioner states he will also train teams to implement Business Alliance for Secure Commerce (BASC) standards to address illicit financing of transnational crime.

The Petitioner submitted evidence of his diploma of business administrator and transcript from the [redacted] and his subsequent employment with the [redacted] for 25 years. The Director determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether he qualifies for and merits a waiver of the job offer requirement in the national interest.

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.* at 889. 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 his proposed endeavor would have substantial positive economic effects or would extend beyond his employer or clients to impact his field more broadly.

On appeal, the Petitioner asserts his proposed endeavor has national importance because providing services on BASC standards aligns with cooperative initiatives between BASC, United States Customs and Border Protection (CBP) and the Customs-Trade Partnership Against Terrorism (CTPAT). The Petitioner claims companies certified by BASC adhere to the same security standards of CTPAT, "enabling a cohesive approach to supply chain security." The Petitioner explains that as a BASC international certification auditor, he is a pivotal contributor to supply chain security and "fortifying global trade against potential vulnerabilities and security threats" such as smuggling, terrorism financing, and organized crime infiltration. The Petitioner submits an article on BASC organization auditors, but the record does not indicate that he developed the BASC standards or that his proposed

endeavor will result in significant contributions to those standards that have national or even global implications in his field. *See id.* at 889 (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field). The Petitioner also submits an article discussing BASC's cooperation with CBP and CTPAT, but the Petitioner does not specify how his consultancy and advice would extend beyond individual entities to impact this cooperation or his field more broadly on a level commensurate with national importance. *See id.* (explaining that when assessing national importance "we look for broader implications").

The Petitioner further claims that his proposed endeavor will have significant economic effects because implementing BASC certification processes optimizes operational efficiency and fosters a business environment more conducive to international trade. The Petitioner asserts that as companies align with security standards under his guidance, "the economy benefits from increased trust in cross-border transactions, reduced disruptions, and a more streamlined and secure international trade landscape." The Petitioner does not indicate that he would employ U.S. workers and he does not demonstrate how his work with individual companies would otherwise extend beyond their businesses to have substantial positive economic effects on a level commensurate with national importance. *See id.* at 890 (discussing substantial positive economic effects).

The Petitioner also claims his proposed endeavor has the potential for significant prospective impact because BASC certification and collaboration yields numerous benefits for companies and customs agencies. For example, the Petitioner explains BASC certification contributes to companies' overall development in supply chain security and fosters greater confidence from authorities. The Petitioner states collaboration with BASC reduces risks related to customs fraud, smuggling, terrorism, and illicit drug trafficking. However, the Petitioner does not specify how his consultancy and advice to individual entities would extend beyond his clientele to yield these benefits in a manner indicative of national importance. *See id.* at 889 (explaining "we look for broader implications").

The Petitioner indicates his BASC certification is key to the significant prospective impact of his proposed endeavor, but the record does not demonstrate that his training of teams to implement BASC standards would have national importance. The Petitioner submitted a letter from M-V-O-[2], Executive Director of BASC [redacted] who praises the Petitioner's professionalism and personal qualities and states the Petitioner has taught BASC standards to companies certified and evaluated by BASC. The Petitioner also submitted a letter from M-G-C-, Training Center Director of BASC [redacted] who states the Petitioner provided instruction on conspiracy in companies, corporate social responsibility, anti-corruption and anti-bribery management systems, and good business practices. M-G-C- also praises the Petitioner's experience and knowledge and asserts he would be a "great contribution" to any organization or company. Neither M-V-O- nor M-G-C- discuss the Petitioner's proposed endeavor or otherwise indicate that his training on BASC standards would extend beyond his work with individual clients to impact his field more broadly on a level commensurate with national importance. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it relates to U.S. strategic interests).

The Petitioner also submitted articles on the implementation of the Anti-Money Laundering Act of 2020, the International Monetary Fund and the fight against money laundering and terrorism financing,

[2] We use initials to protect the privacy of referenced individuals.

the Biden Administration's 2022 National Drug Control Strategy, the economic consequences of money laundering, and BASC and the BASC standards. While the Petitioner's proposed endeavor would advise entities on money laundering and drug trafficking, and help implement BASC standards to address illicit financing of transnational crime, our assessment of national importance does not focus on the importance of issues to a field in general. Rather, our assessment "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles mention the Petitioner, or otherwise address the potential prospective impact of his proposed endeavor.

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 record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his clientele to impact national security and the prevention of money laundering and drug trafficking more broadly at a level commensurate with national importance.

The Petitioner has not established that his 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 his field, or has 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.