U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31523584

Date: JUL. 19, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, who describes himself as "an expert in human capital formation," 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 Nebraska Service Center denied the petition, concluding that the record did not establish the national importance of his proposed endeavor. Additionally, the Director determined that the Petitioner did not establish that he is well-positioned to advance the proposed endeavor and 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. 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.

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. ANALYSIS

The Petitioner submitted evidence that he has a doctoral degree in Political and Social Sciences and Communication from the [redacted] in Belgium. Accordingly, the record supports the Director's conclusion that the Petitioner has an advanced degree per the requirements of 8 C.F.R. § 204.5(k)(2).

The first prong under *Dhanasar*, 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Petitioner's proposed endeavor is "[t]o attract more American students to STEM fields and bridge the gender gap in these fields through the non-profit organization he has already established in the U.S." He explains that his area of expertise, human capital formation, "is concerned with developing important abilities and skills among populations of people in order to support their growth and wellbeing."

As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. The Director determined the Petitioner established the substantial merit, but not the national importance, of the proposed endeavor. On appeal, the Petitioner argues that the Director erred in stating that the "field of STEM has substantial merit" because STEM, which is an acronym for science, technology, engineering, and math, is not a field on its own and is not his proposed endeavor. However, any error by the Director here was harmless, as the Director determined that the Petitioner met this criterion and we agree that the Petitioner's proposed endeavor to "attract more . . . students to STEM fields" and bridge the gender gap in STEM-related occupations falls within one or more of the areas contemplated by *Dhanasar* and has substantial merit.

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. The Director concluded

[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 Petitioner had not demonstrated the national importance of his proposed endeavor because he had not shown economic implications beyond his own organization and clients. Also, the Director indicated that while the Petitioner's profession in human capital formation may have value, he had not shown that his role as director of his nonprofit organization would have a broad impact outside his own place of employment. The Director additionally concluded that the Petitioner had not provided a clear description of his proposed endeavor or any evidence that he had influenced the field.

On appeal, the Petitioner contends the Director misunderstood his proposed endeavor and mischaracterized and failed to fully consider the evidence. He asserts the Director mistakenly stated that he claimed his endeavor would directly benefit the national economy. He emphasizes that there are indirect economic effects of his work but that his proposed endeavor, which involves work in a nonprofit organization, is not focused on direct economic impacts. He also contends the Director erred in stating that the Petitioner did not submit any evidence to establish the national importance of his proposed endeavor, without acknowledging the evidence he filed initially and in response to the Director's request for evidence (RFE). He further alleges that the Director mistakenly indicated that the description of the proposed endeavor is unclear and vague, and erred in stating that the evidence did not contain details showing the Petitioner had significantly influenced the field of endeavor, which is a consideration for the second prong of *Dhanasar* rather than the first. The Petitioner has clearly defined his proposed endeavor, and we withdraw the Director's conclusion to the contrary.[2] Additionally, as the Petitioner correctly notes, evidence that an individual's work has influenced the field of endeavor relates to whether they are well-positioned to advance the endeavor under *Dhanasar's* second prong, rather than national importance. Nevertheless, for the reasons provided below, we agree with the Director's determination that the Petitioner did not establish the national importance of his proposed endeavor. While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

The Petitioner initially submitted evidence regarding his education, past experience, and proposed endeavor. In his personal statement, he discussed his experience and training in "elaboration, implementation and assessment of economics, politics and social policies" to promote "economic growth and social justice in developed and developing countries." He recalled prior work in Africa, Europe, and Israel to help implement public policies promoting wellbeing and training leaders to promote social justice and fight antisemitism and racism. Additionally, he noted he had organized and spoken at conferences and published several books. Regarding his proposed endeavor "[t]o attract more American students to STEM fields and bridge the gender gap in these fields" through his nonprofit organization, the [redacted] the Petitioner discussed plans including trainings, summer camps, open houses, scholarships, coaching, and mentoring for students. He also mentioned plans to conduct research on STEM education and identify strategies to increase interest in STEM fields. The Petitioner explained that he has already collaborated with [redacted] in Texas to motivate and support students in STEM fields through mentoring, tutoring, advising, supplemental instruction, and online resources. He indicated that he will also offer consulting services to STEM students so that they have the skills to open their own businesses. He

[2] The Director also appears to have mistakenly referred to "the electrical engineering field" and "the field of brand strategy," neither of which relates to the Petitioner's proposed endeavor. These errors were harmless, as we agree with the Director's ultimate determination that the Petitioner did not establish the national importance of his proposed endeavor, but we withdraw the references to other fields not at issue in this case.

stated he has filed paperwork to establish a nonprofit organization in New York and intends to operate on a national level eventually.

The evidence shows the Petitioner has established a registered nonprofit organization in Texas and collaborated with [redacted], a community college with several campuses in Texas, to support students in STEM fields at that institution. He submitted letters and other documentation from officials at [redacted] about the [redacted] (the project) about the success of the project at one [redacted] campus during the spring 2023 semester. The documents show the project provided "embedded supplemental instruction" in five STEM-related courses, for which [redacted] gave "stipends for faculty fellows and salaries for part-time" instructors. One letter from [redacted] notes 214 students attended courses taught by [redacted] faculty fellows, 231 students attended supplemental review sessions, and an estimated 180 students were contacted in outreach events. The letter states the "success rate" in "targeted STEM sections" was 82.2 percent, as opposed to 65.1 percent in other courses, but does not explain the meaning of "success rate" in this context. The documents also show the project provided $500 scholarships to 20 recipients, 11 of whom were female students. According to documents from [redacted], the institution plans to continue the project and expand it to additional campuses in the future. The Petitioner's evidence also shows he has filed an application as a foreign not-for-profit corporation in the state of New York. The evidence does not indicate any further activities in New York.

The Petitioner states the United States "is losing the leadership in STEM fields to the benefit of China and India because the U.S. is not training enough students who remain working in these fields in the U.S." and that the gender gap in these fields needs to be filled to ensure long-term growth in STEM. He has submitted additional evidence relating to the importance of STEM education in general and the role of STEM fields in improving a nation's standards of living, economic growth, and competitiveness. One article notes low unemployment rates and higher median earnings in the STEM labor force as compared to non-STEM jobs and states women make up about 34 percent of STEM workers. Another article discusses how women and girls are underrepresented in STEM fields and the potential benefits of narrowing that gender gap. Reports from the National Science & Technology Council indicate the importance of investment and research to ensure an "effective and inclusive STEM education" and its impact on innovation, prosperity, and security in the United States. The evidence mentions that STEM education and the inclusion of women and girls in STEM fields are important. However, the Petitioner has not shown the national importance of his specific proposed endeavor as implemented through his nonprofit organization.

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.* The evidence the Petitioner submitted shows that he provided funding and support for students in STEM fields at a [redacted] Texas community college. During one semester, he provided $500 scholarships for 20 students and funded a project to provide students with extra support in five classes, plus supplemental instruction and guidance outside of class. But he has not shown this collaboration with [redacted] has broader implications beyond the students in the program at that institution. Although he has expressed an intent to expand operations into New York and later into all 50 states, the evidence does not indicate any progress toward this goal aside from filing an application to establish a nonprofit organization in New York. He does not discuss specific educational institutions he plans to collaborate with in New York or specifically describe any

other planned work there. Additionally, though a focus of his proposed endeavor is on bridging the gender gap in STEM fields, the evidence does not show that his past or planned work with [redacted] addresses this matter. Although the evidence relating to the scholarships he awarded indicates that applications from female students would receive priority for some of the scholarships, it also shows that 11 female students and 9 male students ultimately received scholarships. The documentation relating to [redacted] does not otherwise indicate plans to provide supports or services specifically for female students in STEM fields such that the Petitioner's work through the nonprofit might have broader implications among the STEM workforce overall, rather than an impact limited to the individual students participating in the [redacted] program. He also did not provide data to indicate that the number of students involved in the [redacted] project at [redacted] is a significant percentage of that institution's student population or of STEM students as a whole such that the impact on their education might be nationally important.

We also stated in *Dhanasar* 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 argues on appeal that the Director mistakenly focused on the potential economic impact of his proposed endeavor, he indicated in his business plan that his nonprofit organization would create a total of 1,600 jobs around the country by the end of its fifth year and projected total revenues of $1,820,000 by the end of year one and $9,100,000 by the end of year five. However, he did not present any supporting evidence corroborating these assertions and figures. Moreover, the Petitioner did not demonstrate how his business plan's claimed revenue and employment projections, even if credible or plausible, may have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the nation. He did not establish the significance of the revenue projections 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, he did not demonstrate the relevance of the job creation estimates to show that such future staffing levels would provide substantial economic benefits to the [redacted] Texas, region, any future locations in New York or other states, or the U.S. economy more broadly at a level commensurate with national importance. 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 students, clients, employees, and the educational institution(s) involved in collaborations, 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.[3]

The Petitioner emphasizes his education, experience, and expertise in the field of human capital formation and his success in prior projects relating to poverty alleviation, social justice, and anti-racism work. He has submitted evidence of his published articles and books, role as a speaker at

[3] Many proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, not only have substantial merit in relation to U.S. science and technology interests but also have sufficiently broad potential implications to demonstrate national importance. *See generally* 5 *USCIS Policy Manual* D.2, https://www.uscis.gov/policymanual. Here, the Petitioner's proposed endeavor focuses on increasing female representation in STEM fields and providing general support to students in STEM, but he does not suggest that his own endeavor falls within a STEM profession.

conferences and meetings, and leadership during trainings and mission trips. The evidence includes, but is not limited to, reference letters regarding his past work with other organizations and articles about his projects. 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. The evidence relating to the Petitioner's education and past projects in other areas does not indicate that his current proposed endeavor promoting and supporting STEM education through [redacted] is nationally important. Furthermore, although the record also includes letters of appreciation for the Petitioner's support, including from a dentist whom the Petitioner assisted when she was a student and from [redacted] student recipients of the 2023 [redacted] scholarship,[4] the letters do not show the broader impact of the Petitioner's work rather than limited to the specific students he has helped. Again, 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.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of the work. *Id.* at 889. Here, the Petitioner has not demonstrated how his work promoting and supporting STEM education and working to fill the gender gap there through his nonprofit organization would 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 here does not show through supporting documentation how the Petitioner's endeavor of attracting more American students to STEM fields and bridging the gender gap in those fields through his nonprofit organization will impact the field or the U.S. economy more broadly at a level commensurate with national importance. Accordingly, the Petitioner has not established that his proposed endeavor meets the first prong of the *Dhanasar* framework.

Because the identified reason for dismissal is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning 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

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not demonstrated that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

[4] The student letters contain similar formatting and are unsigned. They carry limited evidentiary weight.