U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32385884

Date: JULY 19, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a manager in the trucking industry, 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 did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The Director dismissed the Petitioner's subsequent motion to reopen and reconsider. 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 business plan submitted in response to the Director's request for evidence, the Petitioner states he will own and serve as chief executive officer of a company providing consultancy and training services to businesses operating in the trucking industry. The Petitioner states his company will be located in [redacted] California and provide sales management, marketing strategies, and process enhancement to small, medium, large, and multinational companies in the United States.

The Petitioner submitted evidence that he holds the equivalent of a United States bachelor's degree in business administration and has over five years of progressive experience in his specialty. 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 that his company's services would sufficiently extend beyond his clientele to impact his field, industry, or the U.S. economy more broadly at a level commensurate with national importance.

On appeal, the Petitioner asserts his proposed endeavor has national importance because he will provide consulting and training services to businesses in the trucking industry, which is a major contributor to the United States economy. The Petitioner states trucks move approximately 72 percent of the nation's cargo by weight and the trucking industry plays a vital role in maintaining the supply chain for every major industry. The Petitioner submitted an industry report on truck dealers, a market analysis report for pickup trucks, and articles discussing how the trucking industry affects the U.S. economy, trucking industry trends, statistics, and outlook for 2023, trucking economics and industry

data, and must-know trucking industry statistics. While these reports and articles attest to the importance of the trucking industry in the United States, they do not establish the national importance of the Petitioner's specific proposed endeavor. Our assessment of national importance does not focus on the importance of a field or industry in general, rather it "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.

The Petitioner also claims a letter from H-D-P-[2], Associate Professor of Entrepreneurship and Innovation at the [redacted] demonstrates the national importance of his proposed endeavor. In his letter, H-D-P- expresses his opinion that the Petitioner qualifies for a national interest waiver. H-D-P- discusses the California automotive market's need for consulting services, challenges to the automotive production supply chain, the Biden Administration's Bipartisan Infrastructure Deal designed to address supply chain issues, and President Biden's speech on the Trucking Action Plan. H-D-P- states supply chain issues and challenges affecting the trucking industry are matters of national importance, but he does not articulate how the Petitioner's company's work would extend beyond individual businesses to impact the supply chain and the trucking industry 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 and H-D-P- further assert the Petitioner's business plan shows his proposed endeavor will contribute to the United States economy. The Petitioner's business plan projects his company will employ five people the first year and 13 people by the fifth year. The business plan estimates the company will pay $44,400 in total taxes in the first year, increasing to total tax payments of $132,730 in the fifth year. The business plan also estimates a profit of $28,350 in the first year, increasing to $100,460 in the fifth year. The business plan does not state how these financial forecasts were calculated and the Petitioner and H-D-P- do not provide data on how the company's staffing level and projected profits compare to other consulting firms in the trucking industry. The Petitioner has not demonstrated that the estimated employment of 5 to 13 people shows a significant potential to employ United States workers or that his company will operate in an economically depressed area. The Petitioner also has not established that his company's projected tax payments and profits would have a substantial positive economic effect indicative of national importance. *See id.* at 890 (discussing significant potential to employ United States workers and other substantial positive economic effects as indicative of national importance).

The Petitioner also claims his company has national importance because it will take a comprehensive approach to addressing the needs of the U.S. trucking industry through sales process optimization, market analysis, customer relationship management, and extensive training programs. The Petitioner does not indicate that he developed any of these approaches or that his company would implement approaches with national or even global implications for the trucking industry. *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 has not established that his company's training programs would extend beyond individual trainees to impact the trucking industry more broadly. *See id.* at 889 (explaining "we look

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

for broader implications"). 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 the trucking industry 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 broad 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.