U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32293981

Date: JULY 22, 2024

Appeal of Texas Service Center Decision

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

The Petitioner 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 that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that 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.

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;

[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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 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 Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to his proposed endeavor, the Petitioner initially indicated that he intends "to work as Sustainability Advisor for U.S. based companies and entities to share my deep knowledge and practical expertise to achieve programmatic solutions to the Sustainable Development Goals agenda." In response to the Director's request for evidence, the Petitioner provided company formation documents for [redacted] as well as a "Personal Plan" stating:

> [The Petitioner] endeavors to provide expert in-house project sustainability and environmental consulting services to businesses in the U.S. Utilizing his expertise . . . the Petitioner will be able to provide expert consulting services, including the establishment of in-depth plans, while also brainstorming, projecting budgets, estimating timelines, and managing all phases throughout the project. The Petitioner possesses excellent organizational skills and has an analytical mind that will help him to ensure all projects are delivered on time, according to requirements, and within budget.
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> As a Sustainability Expert, [the Petitioner] will provide expert assessment and advisory services for his clients, on matters about the management of environmental issues. In doing so, [the Petitioner] will play an integral role in reducing the detrimental impact of industrial, commercial, and governmental initiatives on the environment. [The Petitioner] will evaluate current environmental policies, manage systems and processes through comprehensive audits, and measure environmental contamination inside and outside the client organization's premises. [The Petitioner] will strive to help his clients design and implement efficient systems and processes to mitigate current and future environmental damage. He will also focus on raising organizational awareness of the importance of conservation, sustainability, and other environment-related matters. [The Petitioner's] main goal will be to help clients navigate the rapidly changing landscape of sustainability and to identify opportunities for positive change.

The record includes information about waste and recycling in the United States, Seattle and Austin's management and transformation of waste streams, sustainable development goals, climate action and sustainability, and sustainability specialists. In addition, the Petitioner provided articles discussing the benefits of sustainable development, the reasons businesses should embrace sustainability, federal funding for climate resilience, the South Florida Ecosystem Restoration Task Force, and environmental justice. He also submitted Biden Administration Executive Orders on "Protecting

Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" and "Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability." We agree with the Director that the submitted documentation establishes the Petitioner's endeavor has substantial merit. In determining national importance, however, the relevant question is not the overall importance of the industry in which the individual will work or the value of protecting the environment; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. The Petitioner must still demonstrate the potential prospective impact of his specific proposed endeavor.

The Petitioner also presented letters of support from B-M-P-, L-C-, D-E-, A-C-S-, J-A-A-G-, E-W-M-J-, C-A-W-, R-G-R-G-, J-S-R-, and G-M- discussing his environmental sustainability consulting capabilities and experience. In addition, he provided letters from T-V-, K-M-A-, C-F-, A-D-, D-M-, and R-T-M- reflecting interest in his consulting services. The Petitioner's skills, knowledge, and prior work in his field, as well as interest from potential customers, 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.

In addition, the Petitioner offered an "Expert Opinion Letter" from Dr. A-A-, Adjunct Professor of Mathematics at [redacted] in support of his national interest waiver. Dr. A-A- contends that the Petitioner's proposed work is of national importance because his generic occupation of sustainability specialist and the environmental consulting industry stand to contribute to our nation's economy, societal welfare, government initiatives, public health, and environmental sustainability. Again, the issue here is not the national importance of the field, industry, or profession in which the individual will work; rather we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. The advisory opinion does not demonstrate how the Petitioner's day-to-day management of his company's operations and performance of environmental consulting services for clients as contemplated by his proposed endeavor rise to a level of national importance. The letter from Dr. A-A- does not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work offers broader implications in his industry or substantial positive economic effects for our nation that are indicative of its national importance.

In the decision denying the petition, the Director determined that the Petitioner had not established the national importance of his proposed endeavor. The Director stated the Petitioner had not demonstrated that his undertaking has implications beyond his "business and its business partners, alliances, and/or clients or customers to impact the industry or field more broadly." The Director also concluded the Petitioner had not shown that his proposed endeavor stands to "employ a significant population of workers in an area, or offer a region or the country a substantial economic benefit through employment levels, tax payments or business activity."

On appeal, the Petitioner contends that his proposed endeavor impacts a matter that government entities have described as having national importance and is the subject of national initiatives. He points to the Clean Air Act, the Clean Water Act, the Paris Agreement, and the American Jobs Plan and argues that his undertaking will support government "actions relating to the environment by contributing to the necessary reduction in greenhouse gases and overall environmental pollutants in the United States."

The Petitioner also asserts that his undertaking will "enhance societal welfare and cultural enrichment – specifically in South Florida." He states that his endeavor offers "assistance in the preservation of nature and natural resources," promotes "green energy solutions which have proven to create jobs and increase wealth," and provides "environmentally conscious practices which result in a reduction of environmental pollutants." In addition, the Petitioner claims that his work "as a sustainability advisor will result in increased profits for his clients and, consequently, more jobs available to American workers. This necessarily results in an improvement to societal welfare as more individuals will join the workforce and subsequently contribute to the tax base to the benefit of all Americans." He further contends that his company's services stand "to help business and governmental actors in the South Florida region reduce costs and pollution levels, as well as support existing government initiatives and policies."

The Petitioner, however, has not provided evidence demonstrating that his environmental sustainability consulting work would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Here, the Petitioner has not demonstrated how the potential prospective impact of his proposed endeavor stands to offer broader implications in his industry or to generate substantial positive economic effects in the region where his company will operate or in other parts of the United States.

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further 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.* We also stated 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.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. While the Petitioner's statements reflect his intention to provide sustainability and environmental consulting services to his company's future clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. 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, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his company and its clientele to impact his field, the environmental sustainability consulting industry, societal welfare, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the regional

or national economy resulting from the Petitioner's consulting projects would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890. Accordingly, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.