U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31676244

Date: JULY 25, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a franchise business manager and operations director, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability, 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 an individual of exceptional ability, 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 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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, the Petitioner states that he will serve as chief executive officer of [redacted] a limited liability company headquartered in [redacted] Florida. The business plan explains that [redacted] will assist U.S. companies to scale their sales to other markets using the franchise model and help existing American franchises improve their operations and expand their markets.

The Director determined that the Petitioner qualified for EB-2 classification as an individual of exceptional ability. 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.* 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 proposed endeavor would have a broad impact on his field rising to the level of national importance.

On appeal, the Petitioner asserts the Director did not consider all of the evidence and statements he submitted. De novo review of the record shows no error in the Director's assessment of the relevant evidence and claims. 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).

The Petitioner claims his company will have national importance because it has significant potential to employ U.S. workers and will have other substantial positive economic effects. The Petitioner's business plan projects his company will employ four other individuals in the first year, increasing to

31 in the fifth year. The Petitioner also submitted a chart forecasting his company would additionally indirectly create five jobs the first year, increasing to 47 by the fifth year. The business plan forecasts a profit of $9,276 the first year increasing to $561,961 by the fifth year, and projects the company will pay $486,189 in state, federal, and payroll taxes by the fifth year. The Petitioner's business plan states that the franchising industry generates millions of jobs and franchised businesses contribute $670 billion to the U.S. economy. The Petitioner has not established that the employment of four to 31 people directly and up to 47 people indirectly shows a significant potential to employ U.S. workers in an industry that employes millions of people. The Petitioner also has not demonstrated that a profit reaching $561,961 and tax payments reaching $486,189 would have a substantial positive economic effect in an industry that contributes $670 billion to the national economy. *See Dhanasar,* 26 I&N Dec. at 890 (discussing significant potential to employ United States workers and other substantial positive economic effects as indicative of national importance).

The Petitioner also asserts the media articles, industry publications and business plan he submitted shows his company will have national or even global implications within his field. The Petitioner submitted articles on the 2021 economic outlook for franchising, the state of small businesses in 2021, a 2022 national franchise report, and the Small Business Administration (SBA) franchise directory. These articles attest to the importance of franchises and small businesses, but they do not indicate the Petitioner's proposed endeavor has national importance. Our assessment of national importance does not focus on the importance of a field 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 submitted a book he authored entitled [redacted] The Petitioner did not explain the relevance of the book to his proposed endeavor or document any contributions his book has made or would make to the franchise industry. *See id.* (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

The Petitioner submitted a letter from V-L-[2], Associate Professor of Marketing at [redacted] expressing his opinion that the Petitioner qualifies for a national interest waiver, which the Petitioner asserts attests to the national importance of his proposed endeavor. V-L- discusses the size and growth of the global consulting market and the importance of small businesses to the nation's economy. He does not, however, specify how the Petitioner's company would extend beyond its clientele to impact the global consulting market or small businesses generally on a level commensurate with national importance. *See id.* (explaining "we look for broader implications"). V-L- also cites the Petitioner's knowledge of the Brazilian commercial sector and notes that the United States designated Brazil as a major non-NATO ally in 2019. While he discusses the importance of partnering with Latin American firms for U.S. firms with no presence in Latin America, V-L- does not discuss how the Petitioner's company would impact commercial relations between the United States, Brazil and Latin America beyond its work with individual businesses. *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 further claims his proposed endeavor has national importance because it impacts a matter that a government entity has described as having national importance and is the subject of

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

national initiatives. The Petitioner states President Biden has spoken about the critical need of entrepreneurs and cites U.S. Citizenship and Immigration Services (USCIS) policy on evaluating evidence submitted by entrepreneurs. The Petitioner does not submit evidence of the President's remarks on entrepreneurs. In regards to assessing an entrepreneur's eligibility for a national interest waiver, USCIS policy states, "[e]vidence establishing the petitioner's past entrepreneurial achievements and that corroborates projections of future work in the national interest are favorable factors. Claims lacking corroborating evidence are not sufficient to meet the petitioner's burden of proof." 6 *USCIS Policy Manual* F.D(4), https://www.uscis.gov/policy-manual/. The Petitioner did not submit evidence that his company would impact governmental or federal matters or initiatives on the franchise industry on a level commensurate with national importance.

The Petitioner also claims there are "countless governmental initiatives" that support franchises and cites the SBA franchise directory. The Petitioner submitted evidence of this directory but did not demonstrate how his company's work with individual franchises would impact his field more broadly. 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. *Dhanasar*, 26 I&N Dec. at 893. Here, the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his company's clientele to impact his field more broadly in a manner indicative of national importance.

The Petitioner has not established that his proposed endeavor has significant potential to employ U.S. workers, would have other substantial positive economic effects, would have national or even global implications within his field, or would have 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.