U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32159419

Date: JULY 30, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an accountant and professor, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, as well as a national interest waiver of the job offer requirement attached to this classification. 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 did not establish eligibility for a national interest waiver. The matter is now before us on appeal. 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

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v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- On balance, waiving the job offer requirement would benefit the United States.

Id. at 889.

II. ANALYSIS

A. Substantial Merit and National Importance

The first prong, 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. Id. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer. See generally 6 USCIS Policy Manual F.5(D)(1), https://www.uscis.gov/policy-manual.

The Director determined that while the Petitioner established that the proposed endeavor has substantial merit, he did not establish that the proposed endeavor is of national importance as set forth under the first prong of the Dhanasar analytical framework. We agree, for the reasons explained below.

The Petitioner asserts that his proposed endeavor is to use his expertise and knowledge gained from his professional experience as an accountant/cost analyst and tenure as a professor, teaching accounting, economics, management and marketing, to provide consulting services "in areas such as human resources, corporate strategy, accounting, and organizational design." He contends that because "small businesses have been majorly affected by COVID-19," and are financially fragile due to "mass layoffs and closures, the risk of closure with negatively associated lengthy waits to reopen, and an un undetermined likelihood of COVID-related disruption," his endeavor "impacts nationally important matters and the national economy explicitly by [o]ffering economic convenience and agility, as he is able to secure the success of small and medium-sized U.S. companies; [p]romoting growth and expansion and driving change with innovation, which thus promotes and drives national economic advantage; and, [s]timulating the domestic job market, as enhanced business actions through his own business that leads to the generation of new jobs for American workers." He states that his company "will be headquartered in Maryland, serving HUBZones area . . . part of a U.S. Small Business Administration program for small companies that operate and employ people in historically underutilized business zones." In addition, the Petitioner's business plan states that during the first five years, his company will generate $3.5 million in revenue, create 24 jobs, with $1.95 million paid in salaries. The business plan also indicates that within five years, the company will expand from its headquarters in [redacted] Maryland to offices in Virginia and West Virginia.

On appeal, the Petitioner asserts that the Director "did not give due regard to the following pieces of evidence: [his] resume, which outlines his vast experience in the field of endeavor; [his] Business Plan, which extensively describes his credentials, expertise, and professional accomplishments, and allows

concrete projections of the benefits he may offer to the U.S.; [e]vidence of [his] work in the field, which demonstrates his vast contributions in his field; [l]etters of recommendation; and [i]ndustry reports and articles, demonstrating the national importance of [his] proposed endeavor; as well as the steep shortage in the U.S. of professionals with his profile in the field." He further asserts that "the benefit generated to the United States from [his] prospective contributions to the management consulting sector will be concrete and substantial, even if other U.S. workers are available."

Here, the record does not show the prospective impact of the Petitioner's specific proposed endeavor beyond his own clients for which he would provide his services. While the Petitioner asserts that his company "will foster increased profitability and efficiency for U.S. companies from several industries" as well as "generate jobs for U.S. workers in underserved areas," he has not demonstrated how his specific consulting business would help enough clients increase profitability or create enough jobs to exert a national economic impact. Specifically, his business plan projects that his company will generate $3.5 million in revenue and create 24 jobs during the first five years – these projections do not indicate that the business would affect the economy at a regionally or nationally important level. Further, his business plan does not demonstrate how his business would benefit an economically depressed area or how the benefits to the regional or national economy resulting from his endeavor would reach the level of "substantial positive economic effects" contemplated by Dhanasar. Id. at 890. In addition, while the Petitioner claims that his company will secure the success of small and medium-sized U.S. companies by promoting growth and expansion, driving change with innovation, and stimulating the domestic job market, he has not been established this claim through independent and objective evidence. Generalized conclusory statements that do not identify a specific impact to the field have little probative value,[2] and here, the Petitioner has not shown with sufficient evidence how his proposed endeavor stands to sufficiently extend beyond his potential clients or the industry or fields that his clients are involved in.

In the present case, the Petitioner has not provided corroborating evidence, aside from claims in his statements and his business plan, that his business's activities stand to provide substantial economic benefits to the region of [redacted], Maryland or the United States, and his , articles/reports, and letters of recommendation and are not sufficient to demonstrate his endeavor has the potential to provide economic, societal, and security benefits to the United States. Thus, while the Petitioner's management consulting services may "contribute" to economic growth, he has not demonstrated that his specific business – alone – would have national implications for the U.S. economy, the [redacted] region, or the management consulting field. We recognize the importance of the accounting and financial services industry and of small businesses to the U.S. economy; however, the economic benefits that the Petitioner claims will result from his endeavor depend on numerous factors and the Petitioner does not offer a sufficiently direct evidentiary tie between his proposed business's financial services work and the claimed economic results.

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. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under

[2] *See e.g., 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

Dhanasar's second and third prongs. See INS v Bagamasbad, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); 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).

ORDER: The appeal is dismissed.