In Re: 31073078 Date: JUNE 12, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a mechanical engineer in the automotive 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 an advanced degree professional, 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. 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

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:

- 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

[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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 is a Body Dimensional Specialist with the [redacted] In his "Professional Plan" the Petitioner stated, "I will use my experience as a Mechanical Engineer to help enterprises in the automotive industry improve operations and achieve better productivity and profitability levels." The Petitioner added he will "help automotive industry companies succeed through proper mechanical engineering services" and focus on mechanical engineering applied to the automotive industry, process management and frame/stamping projects, painting/final assembly, product development/prototypes/product design, serial logistics, and product quality.

The Director determined that the Petitioner qualified for EB-2 classification as an advanced degree professional. 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. *Id.* 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 any broader impact his work would have on his field rising to the level of national importance.

On appeal, the Petitioner asserts his proposed endeavor holds national importance as documented in his initial submission and response to the Director's request for evidence (RFE).[2] In his RFE response, the Petitioner claimed his proposed endeavor has significant potential to employ U.S. workers or has substantial positive economic effects because of various industrial factors including the high value of the automotive manufacturing market in the U.S., the volume of automotive sales, and the large number of Americans working in the automotive industry. The Petitioner did not submit evidence specifying how he, as an individual mechanical engineer, will employ U.S. workers or create other significant positive economic effects. *See id.* at 890 (explaining national importance may be shown by an endeavor that has "significant potential to employ U.S. workers or has other substantial economic effects").

The Petitioner also claimed his proposed endeavor "will broadly enhance societal welfare or cultural enrichment" because the "automobile industry is a pillar of the global economy, a main driver of

[2] The Petitioner also claims he was adversely affected by USCIS' notice that his petition was approved. He submits a copy of an e-mail message he received from USCIS Case Status stating his petition was approved. USCIS records indicate the e-mail was sent in error as the Director subsequently reviewed the Petitioner's response to the RFE and denied the petition.

macroeconomic growth and stability and technological advancement in both developed and developing countries." The Petitioner did not submit evidence of how his specific proposed endeavor will enhance societal welfare or cultural enrichment beyond his individual contributions to future employers as a mechanical engineer. *See id.* at 889 (explaining we consider the potential prospective impact of the "specific endeavor.").

In addition, the Petitioner claimed his proposed endeavor has national importance because of the North American Free Trade Agreement (NAFTA) requirements for the majority of automobile components to be manufactured in Canada, Mexico, or the United States and to guarantee a certain wage for up to 40 percent of automobile workers, and because the "Biden-Harris Administration announced new actions to grow American competitiveness, [and] expand manufacturing jobs." The Petitioner did not submit evidence detailing how the Petitioner's proposed endeavor would contribute to these national concerns beyond his work for individual employers in the future. Rather than focusing on the importance of an industry in general, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.*

The Petitioner also asserted his proposed endeavor will have national importance by addressing "professional demand and talent shortage in the field of Mechanical Engineers." The Petitioner claimed he has the ability to innovate organizations, which will then "be able to attract more candidates for manufacturing positions." Beyond his individual contributions to future employers, the Petitioner does not specify how he would contribute to his field in this area more broadly.

On appeal, the Petitioner asserts that the Director did not address all of the evidence submitted with the initial petition and RFE response which demonstrate the national importance of his proposed endeavor. Although we agree the Director did not discuss all the relevant evidence, they did provide a comprehensive analysis of the evidence and the Petitioner has not established how any documents not directly addressed established the national importance of his endeavor or his eligibility for the benefit sought. 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). Thus, upon de novo review, the Director did not err in the ultimate determination on national importance, as discussed further below.

The Petitioner submitted support letters from his previous employers at [redacted] in Brazil and the United States. These employers praise the Petitioner's experience, skills, and past work for the company, but do not discuss any impact his proposed endeavor may have on the automotive industry more broadly. [redacted] Production Engineer at [redacted] praises the Petitioner's work on [redacted] in the [redacted] plant from 2015 to 2016 and states the Petitioner became known among his professional peers for his "technical capacity and ability to spread knowledge and training." Mr. [redacted] states the Petitioner "will be able to add value to whatever area and department he works in," but he does not discuss the Petitioner's proposed endeavor. Similarly, [redacted] praise the

Petitioner's past accomplishments at [redacted], but they do not discuss any impact of the Petitioner's work in his field or discuss his proposed endeavor.

[redacted] Manager with [redacted] describes the Petitioner as an "invaluable asset to the [redacted] plant" and praises his work on the launch of the electric [redacted] in which he was "instrumental in reducing costs and optimizing production." Although Mr. [redacted] states the Petitioner has "positively influenced the field," he only discusses the Petitioner's work at the [redacted] plant and does not address the Petitioner's proposed endeavor or any broader implications it would have on the automotive industry.

[redacted] Measurement Center Manager with the [redacted] states "[a]s a result of [the Petitioner's] invaluable contributions, the launch of the [redacted] was a resounding success." Mr. [redacted] describes the Petitioner as "one of the most capable body mechanical engineers I have ever had the privilege of working with" and states his work on [redacted] "has enhanced the company's reputation and driven innovation in the automotive market." Mr. [redacted] does not specify how the Petitioner's individual contributions drove innovation in the automotive market or discuss any other broader implications of the Petitioner's work or proposed endeavor in the automotive industry. Similarly, in a letter to the U.S. Consulate in Brazil in support of the Petitioner's visa, [redacted] Global Assignments Manager, [redacted] describes him as a "critical asset" to [redacted] U.S. operations, but does not mention any impact his work has had on his field or the potential of his proposed endeavor to impact the automotive industry more broadly.

The Petitioner also submitted a letter from Professor [redacted] in Ohio. Professor [redacted] describes the automobile industry as "a pillar of the global economy" that "contributes to several important dimensions of nation building" and concludes the Petitioner's "proposed endeavor will broadly enhance societal welfare," but does not specify how the Petitioner would accomplish this enhancement. Professor [redacted] also discusses the worth of automobile industry worldwide and its contributions to the U.S. economy concluding the Petitioner's "proposed endeavor has significant potential to employ U.S. workers and has other substantial positive economic effects." He does not specify how the Petitioner's proposed endeavor would have such economic effects.

The record indicates that the Petitioner proposes to work with individual companies and the relevant evidence does not demonstrate that his work as a mechanical engineer will have any broader influence on his field. 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 his field at a level commensurate with national importance. Without sufficient documentary evidence that his proposed work as a mechanical engineer extends beyond his prospective employers to impact the field or the U.S. economy more broadly, the Petitioner has not demonstrated by a preponderance of evidence that his proposed endeavor is of national importance. Therefore, the Petitioner has not met the first prong of the *Dhanasar* framework.

B. Remaining *Dhanasar* Prongs

The Petitioner has not submitted sufficient evidence to demonstrate 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.