U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31491427

Date: JUNE 26, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a lawyer, 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 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

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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

II. ANALYSIS

The Petitioner is a lawyer who proposes to work as a law consultant for corporations seeking to expand their business with Latin American companies. In his Professional Plans and Statement submitted in response to the Director's request for evidence, the Petitioner stated he would provide corporations with advice and guidance on labor, tax, and corporate law.

The Petitioner submitted evidence that he holds a foreign equivalent of a United States baccalaureate degree and has over five years of progressive post-baccalaureate 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 his proposed endeavor would have substantial positive economic effects or broader implications in his field beyond the individual companies with which he would work.

On appeal, the Petitioner asserts "his performance will go beyond the impact on the specific companies he advises, considering that international business expansion affects various sectors." The Petitioner submitted letters from companies interested in working with him as evidence of the national importance of his proposed endeavor. For example, [redacted] Chief Executive Officer (CEO) of [redacted] states she is interested "in the contributions [the Petitioner] can bring to our business, guiding us in ways to follow the laws of both countries and guarantee the safest experience for our clients." [redacted] and [redacted] CEOs of [redacted] state: "We are especially interested in his ability in the area of business consulting and the benefits and security he can bring to our business, through the simplification of Brazilian and American laws." [redacted] CEO of [redacted] states he would like to work with the Petitioner because "he can clarify to our clients in a simple and safe way, the main differences

between Brazilian and American legal obligations, generating more reliability and, consequently, attracting more customers for our company." [redacted] president of [redacted] affirms his interest "in the excellent work and contribution that Mr. [redacted] can make for [redacted] in American territory." While these letters speak to interest in the Petitioner's services, discuss the benefits the Petitioner can bring to their individual companies, and are relevant to the second *Dhanasar* prong, they do not address any national or even global implications of the Petitioner's proposed endeavor, or other broader implications it would have in his field. *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 also submitted letters from past employers and colleagues. For example, [redacted] praises the Petitioner's past work as a partner at Mr. [redacted] law firm and states that with the Petitioner's consultancy, companies may expand their business "stimulating the local market or even the expansion and internationalization of American companies into the Brazilian market." Mr. [redacted] expresses his confidence that the Petitioner's "career in the United States will be a continuation of the brilliant story he began building in Brazil over 28 years ago." [redacted] also praises the Petitioner's work at [redacted] and states his belief the Petitioner will provide "greater legal security for numerous companies, which aids in expansions, profitability, and tax payments." [redacted] praises the Petitioner's work as a lawyer and consultant and states he "will undoubtedly help any company in the American market expand their business and generate more profit."

Letters from the Petitioner's past clients similarly praise his work and express their confidence in his ability to succeed in the United States. For example, [redacted] states the Petitioner is "fully capable of facilitating business expansion for American companies in the Brazilian market and vice versa, which will bring benefits to the American economy." The letters of the Petitioner's employers, colleagues and clients attest to the authors' belief in the Petitioner's ability to successfully consult for American companies, but they do not discuss any specific broader implications the Petitioner's proposed endeavor would have in his field. *See id.* at 889 (explaining that when assessing national importance "we look for broader implications").

The Petitioner also submitted a letter from [redacted] Associate Teaching Professor of Law at [redacted] expressing her opinion that the Petitioner qualifies for a national interest waiver. Professor [redacted] asserts the Petitioner's proposed endeavor has national importance because the management consulting industry is "poised to benefit from stronger economic growth" and industry profit is forecast to increase. She claims the Petitioner's work impacts the United States interest in economic partnership and a bilateral trade package with Brazil, which the United States designated as a major non-NATO ally in 2019. Professor [redacted] further states the Petitioner's proposed endeavor will broadly enhance societal welfare or cultural enrichment by helping to increase the profitability of small and medium-sized enterprises in the United States. However, when assessing national importance, we do not look to the importance of an industry or national interests in general, but instead "focu[s] on the specific endeavor that the foreign national proposes to undertake." *Id.*

Professor [redacted] also claims the Petitioner's proposed endeavor "has significant potential to employ U.S. workers and will affect the economy positively" because he will help companies generate

expansion in the Latin American market. The Petitioner also claims he will contribute to the labor market by increasing the number of people hired by companies expanding internationally. Neither the Petitioner nor Professor [redacted] specify how the Petitioner's work will result in significant employment of United States workers or have other positive economic effects beyond the individual companies that may retain his services as contemplated in *Dhanasar*. *See id.* at 890 (discussing significant potential to employ U.S. workers or other substantial positive economic effects as indicators of national importance).

The Petitioner further states he presented articles that "underscore the importance of consultancy for the expansion of companies," which indicates the national importance of his proposed endeavor. The Petitioner submitted articles on the role of Latinos in small-business growth, contributions of immigrant-owned businesses to the national economy, Disney's focus on Latin America, how franchises impact the economy, and why immigrants are natural entrepreneurs. The determination of national importance does not focus on the importance of issues affecting the field in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles mention the Petitioner or address the potential prospective impact of his proposed endeavor.

The Petitioner asserts that under *Dhanasar*, petitioners are not required to establish geographic breadth of their proposed endeavors and proposals focusing on one geographic area of the United States may be considered to have national importance. The Petitioner claims his focus on the state of Florida will "transcen[d] geographical boundaries to impact the broader landscape of the American business ecosystem." However, the Petitioner does not specify how his work with individual companies will have broader implications in his field. *See id.* (explaining we do not evaluate prospective impact solely in geographic terms and "look 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 legal consulting 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, has other substantial positive economic effects, has national or even global implications within the field, or has other broader 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.