U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37021633

Date: MAR. 03, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a biomedical systems technician, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 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 that the Petitioner established he was an advanced degree professional, but had not demonstrated 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.

The Petitioner stated that he will establish and operate [redacted], a company specialized in providing a wide range of clinical engineering and biomedical systems and equipment services to hospitals, clinics, and laboratories. The Petitioner also stated that the company will offer upkeep, repair, and calibration services for medical gear and lease quality medical tools. Further, the Petitioner explained that the company will train and educate healthcare personnel to ensure the safe and efficient use of medical equipment.

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted"). The Director thoroughly reviewed, discussed, and analyzed the Petitioner's national importance claims under the first prong of *Dhanasar*, including his personal statements and business plans, his job experience and skills, and the claimed economic impact of his proposed endeavor.

On appeal, the Petitioner contends that the Director oversimplified the proposed endeavor to analyze the national importance of the endeavor, and the Director erred by not evaluating the remaining

Dhanasar prongs, citing to *Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994). But in *Matter of M-P-* the Board of Immigration Appeals found they were unable to meaningfully review an immigration judge's motion denial when no explanation was provided for the decision. Here, the Director issued a decision that clearly articulated the basis for denial was the Petitioner's failure to satisfy the first prong of the *Dhanasar* framework, which is a requirement for establishing eligibility for a national interest waiver.

Although we agree with the Petitioner that the Director did not directly discuss every piece of evidence she considers as salient to establishing her eligibility for a national interest waiver, he has not established how those omitted documents demonstrated eligibility. Further, the Director discussed several pieces of evidence in the decision and determined the evidence was insufficient to establish the proposed endeavor's national importance, but the Petitioner did not demonstrate that the Director's failure to discuss every document in detail changed the outcome of the case.

On appeal, the Petitioner states that his numerous personal accomplishments should be considered as an indicator of national interest in the proposed endeavor. We recognize the Petitioner's educational background and experience in the field, but a petitioner's expertise and record of success are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated the national importance of his proposed endeavor. The Petitioner does not explain how his past accomplishments establish the proposed endeavor's national importance.

Moreover, the Petitioner must establish the national importance of his business rather than the importance of biomedical systems technician services and entrepreneurship. The relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Further, "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.* Also, "[a]n endeavor that has particularly 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.

However, as noted by the Director, the Petitioner does not provide sufficient details, and the record does not adequately show through supporting documentation, how the Petitioner's business and services stand to sufficiently extend beyond his prospective clients to impact the industry or the U.S. economy more broadly at a level commensurate with national importance. On appeal, the Petitioner does not provide evidence or arguments to overcome the Director's concern outlined in the Decision. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to his future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

Because the Petitioner did 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, as a matter of discretion.[1] Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.

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