U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37009807

Date: MAR. 03, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an agricultural engineer, 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 EB-2 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 that the Petitioner qualified for the EB-2 classification, but that he had not established 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

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

We set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver of the job offer, and thus the labor certification, to a petitioner classified in the EB-2 category if the petitioner demonstrates that (1) the noncitizen's proposed endeavor has both substantial merit and national importance; (2) the noncitizen is well positioned to advance the proposed endeavor; and (3) that on

[1] *See Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen 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.

The second prong shifts the focus from the proposed endeavor to the noncitizen. To determine whether the noncitizen is well positioned to advance the proposed endeavor, we consider factors including but not limited to the individual's education, skills, knowledge, and record of success in related or similar efforts. A model or plan for future activities, progress towards achieving the proposed endeavor, and the interest of potential customers, users, investors, or other relevant entities or individuals are also key considerations.

The third prong requires the petitioner to demonstrate that, on balance of applicable factors, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. USCIS may evaluate factors such as whether, in light of the nature of the noncitizen's qualification or the proposed endeavor, it would be impractical either for the noncitizen to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the noncitizen's contributions; and whether the national interest in the noncitizen's contributions is sufficiently urgent to warrant forgoing the labor certification process. Each of the factors considered must, taken together, indicate that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

II. ANALYSIS

The Petitioner proposes to establish and operate a consulting company, [redacted] which will focus on providing consultancy services across various areas of the agricultural sector including enhancing the productivity and profitability of family farmers. The Director found that the Petitioner qualifies for the underlying EB-2 classification. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the proposed endeavor's national importance under the first prong of the *Dhanasar* analytical framework. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

In denying the petition, the Director determined that the Petitioner's proposed endeavor has substantial merit. The Director determined, however, that the Petitioner did not establish the proposed endeavor's national importance, that he is well-positioned to advance it, and that, on balance, it would benefit the United States to waive the job offer requirement. On appeal, the Petitioner argues that his documents sufficiently establish his proposed endeavor's national importance.

The Petitioner asserts that his company plans to offer personalized innovative solutions to farmers, agricultural companies, and agribusinesses to optimize productivity, promote sustainability, and drive

economic growth in the agricultural sector. The Petitioner further seeks to provide consultancy services in advising family farming, developing agricultural projects, supporting agricultural biotechnology, and training both new professionals and farmers. The record includes a business plan, expert opinion letter, recommendation letters, and industry reports and articles.

The Petitioner contends that he will play a key role in boosting the local economy development and providing essential support to the community. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. The relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that "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.* We also stated that "[a]n endeavor that has significant 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. Here, the Petitioner asserts that his endeavor has the potential to significantly impact the agricultural landscape both locally and globally. The Petitioner nonetheless has not demonstrated that his proposed endeavor will bring substantial economic benefit that would rise to the level of national importance.

The Petitioner claims that his endeavor will positively contribute to the national economy through job creation and revenue generation. He states that his business will create direct employment opportunities in the agricultural sector, including positions for agroeconomics, technicians, researchers, and support staff. The Petitioner, through his business plan, claims that by year five, his company will offer 15 direct jobs and generate net profit of $4,004,742.28. The Petitioner, however, does not provide sufficient detail of the basis of these projections, or adequately explain how these staffing targets and revenue forecasts will be realized. 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 the 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*. *See Dhanasar*, 26 I&N Dec. at 890.

The Petitioner contends that his business will enhance the overall productivity and resilience of the agricultural sector. As previously noted, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of the Petitioner's work. 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, although the field in which the Petitioner seeks to operate is important, the Petitioner has not demonstrated that his specific endeavor stands to sufficiently extend beyond the farmers and businesses he elects to work with to enhance societal welfare on a broader scale indicative of national importance. While supporting local farmers and creating jobs within the agricultural sector will create a positive impact on the sector, the Petitioner, nonetheless, has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor will rise to the level of national importance.

The Petitioner argues that his endeavor supports various governmental initiatives by promoting sustainable farming practices and addressing key challenges faced by family farmers. In determining whether the proposed endeavor has national importance, the relevant question is not the importance of the field, 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. Although the Petitioner argues that his endeavor aligns with government initiatives, he has not shown that his contributions are distinctive, or indispensable compared to other agricultural businesses/others in the same field. Moreover, alignment with government initiatives alone is not sufficient for national importance. Here, the record lacks adequate corroborating evidence that the economic effects of the agribusiness consulting services to be provided by [redacted] would substantially impact the regional or national economy.

The Petitioner argues that he is well-prepared to lead his company, backed by a strong academic background, specialized training, and extensive practical experience. He highlights his agricultural engineering expertise and emphasizes the critical importance of his endeavor, attributing his work to his years of experience. The first prong focuses on the proposed endeavor itself, not the petitioner. *Id.* The Petitioner must establish that his specific endeavor has national importance under *Dhanasar's* first prong. Moreover, although an individual's experience, qualifications, contributions, and achievements are material, they are misplaced in the context of the first *Dhanasar* prong. The Petitioner's professional experience is generally material to *Dhanasar*'s second prong—whether an individual is well positioned to advance a proposed endeavor—but they are generally immaterial to the first *Dhanasar* prong—whether a specific, prospective, proposed endeavor has both substantial merit and national importance. *See id.* at 888-91.

For the aforementioned reasons, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework. Because the documentation in the record does 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. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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

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. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.