U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37136795

Date: MAR. 11, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a cybersecurity entrepreneur, 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 that the record did not establish the national importance of the Petitioner's proposed endeavor. The matter is now before us on appeal pursuant to 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. *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 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).

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

Id.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of 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.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

II. ANALYSIS

The Petitioner intends to serve as the CEO of a company that will provide cybersecurity packages and security-related consulting services.

The Director found the Petitioner qualified for underlying EB-2 classification. However, the Director determined that the Petitioner had not met the *Dhanasar* requirements for a waiver of a job offer and labor certification from a U.S. employer. Specifically, the Director concluded that the national importance of the endeavor had not been demonstrated under prong one, that the Petitioner had not established he was well-positioned to advance the proposed endeavor under prong two, and that the Petitioner had not shown that a waiver of the job offer requirement would be beneficial as required by prong three. We agree the Petitioner has not established the national importance of the endeavor, as required under the first prong of *Dhanasar*.

On appeal, the Petitioner argues that the proposed endeavor aims to provide cybersecurity services and advanced solutions to protect business communities against cyber threats. The Petitioner highlights that the firm will target a range of customers, including businesses ranging from large to small enterprises, with a focus on security-intensive sectors. As cybersecurity incidents have grown in frequency and severity, he notes that his endeavor will offer an "innovative and comprehensive" approach to fill gaps, improve cyber resiliency, and advance national security. The Petitioner further highlights that this work will strengthen critical infrastructure in important areas such as government contracting, financial institutions, and the healthcare sector.

With respect to the specific potential impact of the proposed endeavor, the petitioner argues that it has significant potential to create jobs, as outlined in the accompanying business plan. Furthermore, the Petitioner stresses that the impact would extend beyond the customers directly serviced by his firm, as preventing "large-scale cyberattacks benefits all of society by increasing public trust in digital systems and the economy as a whole." He characterizes the innovative and personalized approach to cybersecurity that he intends to offer as having both national and global implications. The Petitioner also highlights the importance of cybersecurity, particularly to small and medium enterprises, and notes that the demand for cybersecurity solutions continues to rise as fraud and breaches persist.

In support of these assertions, the Petitioner has submitted evidence including but not limited to: a business plan covering five years of operations; an expert opinion letter concluding that the endeavor is of national importance; letters of support from cybersecurity professionals; documentation supporting the Petitioner's educational and professional experience; and reports detailing the demand

for and impact of the cybersecurity sector. The Petitioner includes explanations of government-backed science, technology, engineering, and mathematics (STEM) initiatives and the need for STEM talent.

After de novo review, we conclude that the Petitioner has not satisfied the first prong of the *Dhanasar* framework requiring a proposed endeavor to be of national importance. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of the proposed endeavor. *Id.* at 889. An endeavor may have an impact rising to the level of national importance "because it has national or even global implications within a field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* An endeavor may also have other broader implications that make it nationally important, such as the "significant potential to employ U.S. workers" or other "substantial positive economic effects." *Id.* at 890. The Petitioner broadly asserts that his proposed endeavor demonstrates these types of impacts, but the record does not support this contention.

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 the cybersecurity industry or otherwise impact economic initiatives more broadly at a level commensurate with national importance. Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects. He has not shown that the company's future staffing levels, business activity, associated tax revenue, and financial initiatives stand to provide substantial economic benefits in its initial site in Virginia or in the United States generally.

The Petitioner also argues that his endeavor aligns with national initiatives to increase STEM talent in the United States; he contends that his extensive cybersecurity experience would make his work impactful and provide benefits in line with these initiatives. However, the fact that a proposed endeavor is carried out by a STEM professional does not necessarily make the endeavor nationally important. Similarly, the Petitioner has not shown by a preponderance of the evidence that his work will offer the type of "improved manufacturing processes" or similar outcomes in the United States that would be considered nationally important to the field. *Id.* at 889. While the Petitioner repeatedly characterizes his work as "innovative" and "advanced," the Petitioner has not shown that he has or will develop such processes or otherwise advance the cybersecurity field.

The Petitioner has also not demonstrated by the preponderance of the evidence that the proposed endeavor would have a substantial economic benefit. While the business plan outlines the intent to hire various employees throughout the five-year period, and to reach several million dollars in revenue by year five, the support for these figures has not been provided. Additionally, the Petitioner does not explain how this benefit should be considered substantial compared to the sizeable and established cybersecurity industry currently operating in the United States.

Ultimately, the record does not demonstrate that benefits to the regional or national economy resulting from the Petitioner's undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890. Although the Petitioner has highlighted the importance of good cybersecurity practices and the positive impact that good security practices can have, he has not shown

that the services performed by the company would represent a significant share of the cybersecurity market or otherwise have a national impact.

Because the record does not establish the national importance of the proposed endeavor, the Petitioner has not demonstrated eligibility for a national interest waiver. We reserve opinion on whether the Petitioner could satisfy the remaining eligibility criteria to qualify for a national interest waiver. *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).

III. CONCLUSION

The Petitioner has not shown that the proposed endeavor is of national importance. Because he has not met the first prong of the *Dhanasar* analytical framework, we find that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.