U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35829857

Date: MAR. 13, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 Nebraska Service Center denied the petition, concluding the record did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The Petitioner filed a subsequent combined motion to reopen and motion to reconsider, which the Director dismissed. The Director then moved sua sponte to reopen the proceeding. In a second decision, the Director again concluded that the Petitioner did not establish that a waiver of the job offer requirement would be in the national interest. 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:

[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).

- 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

The Director determined that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional but did not establish eligibility for a national interest waiver under any of the three *Dhanasar* prongs. In particular, the Director determined that the Petitioner did not sufficiently demonstrate either the substantial merit or the national importance of his proposed endeavor under *Dhanasar's* first prong.

Based on our de novo review of the record, we agree. Specifically, we conclude that the Petitioner has not submitted sufficient or consistent evidence regarding the substantive nature of his endeavor, such that we can even evaluate whether it has substantial merit or national importance. And since we cannot even *conduct* that analysis, we are incapable of concluding the Petitioner has met his burden to satisfy the requirements of *Dhanasar's* first prong. While we may not discuss every piece of evidence individually, we have reviewed and considered each one.

In his Form I-140, Immigrant Petition for Alien Workers, the Petitioner described his endeavor as working as a social and community service manager, where he will "[c]oordinate and supervise programs and organizations that support public well-being." In addition, he submitted an "Autobiographical Statement" where he again claimed he would work as a social and community services manager, but also as an environmental scientist and specialist. He additionally expressed his future plans to become an entrepreneur; continue his studies and enroll in a doctoral program in environmental studies; develop software for assessing the anthropogenic impact on climate change, assessing the mutual influence of agriculture and climate change, and the environment; make unique and significant contributions to the American finance industry; and work as an independent contractor upon receiving all necessary business licenses.

In response to the Director's request for evidence (RFE), the Petitioner also declared an intention to create his own food waste management consulting company. He submitted a new business plan outlining his company's mission to provide innovative, sustainable, and cost-effective food waste management solutions that will assist clients in optimizing their waste management processes, enhancing their productivity, and boosting their overall sustainability.

In *Dhanasar*, we held that a petitioner must identify "the specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner has not clearly identified or explained his proposed endeavor. The information provided in his RFE response did not clarify his initial endeavor as claimed on appeal but, rather, introduced additional elements, which added to the ambiguity.

For example, while the Petitioner continued to assert an intention to work as a social and community services manager and environmental scientist in his RFE response, his initial filing made no mention

of starting a food waste management consulting business. His RFE response also did not further explain his initially described plans to enroll in an environmental studies doctoral program, develop software, or contribute to the American finance industry. It is unclear then how the activities proposed in his initial filing would relate to those described in his RFE response and vice versa.

While the Petitioner contends on appeal that each of these components are interconnected and "reflects a coherent strategy toward addressing community and environmental needs," he has not adequately explained how all these seemingly discrete activities will come together to form his future work. For example, any one of these activities could constitute a full-time job. But, the Petitioner has offered little indication of whether he plans to perform these activities concurrently or consecutively, or how much time he will devote to each activity. This is material, as each of these activities would necessarily produce different impacts. For instance, the Petitioner's activities as a doctoral student would differ markedly from his activities developing software, which also differ from his activities owning and operating his own consulting business. Yet, each of these activities appear equally possible under the proposed endeavor as described.

The Petitioner's brief on appeal further adds to the uncertainty surrounding his proposed endeavor. Among other things, he claims:

- "The petitioner's programs will address key societal needs, such as healthcare, education, and housing, which are central to promoting equity and improving the quality of life for all individuals."
- "[T]he petitioner will advocate for marginalized populations and address systemic issues like racial inequality, environmental justice, and access to essential services. By focusing on advocacy, the petitioner contributes to building a more equitable and inclusive society, a national priority for the United States."
- "The petitioner's expertise will be essential during emergencies, such as natural disasters or pandemics, ensuring that the response is effective, compassionate, and well-coordinated."

In his initial filing and RFE response, the Petitioner did not specifically discuss these aspects of his proposed endeavor. For example, the Petitioner did not explain what programs he would implement that address societal needs like healthcare, education, and housing. He also did not articulate what his focus on "advocacy" for marginalized populations would entail and what role advocacy would play in in his proposed endeavor. It is also unclear how his endeavor as previously described in his initial filing and RFE response would contribute to emergency responses during natural disasters or pandemics. His appellate claims only further add to the lack of clarity.

In sum, the Petitioner has not sufficiently explained how these various activities realistically fit together to comprise his endeavor. Because he has not clearly identified or explained his proposed endeavor, we cannot even conduct a *Dhanasar* analysis to conclude that it has substantial merit or national importance.

But, even if we were to set aside the deficiencies discussed above and look at the evidence submitted, the record would still be insufficient to support the Petitioner's claims of his proposed endeavor's national importance. For instance, with regard to his food waste management consulting company, the Petitioner has not sufficiently described what "food waste management consulting" entails. He

contends that he will cater to a "diverse clientele" spanning across a "multitude of industries" including the food production industry, hospitality and retail, the environmental sector, the logistics and supply chain industry, technology companies, the government and public sector, and healthcare institutions. The Petitioner states his company's services will include waste management and optimization; facility planning and design; integration of waste-to-energy systems; sustainability and zero waste consulting; project management and implementation; and maintenance and efficiency engineering. However, he does not describe what these services would entail and how he specifically plans to accomplish these wide-ranging objectives.

For example, he states that his company will offer "waste management and optimization" wherein his team will "specialize in assessing, designing, and optimizing food waste management processes" and will employ "the principles of circular economy and waste hierarchy" to assist his clients in "significantly reducing waste, streamlining operations, and achieving considerable cost savings." However, he has not defined what these "food waste management processes" are, what they would involve, and what specific activities he will perform to achieve these goals.

Similarly, although the Petitioner claims he will integrate "innovative tools and methodologies" into his service offerings, which will allow him to deliver more effective, cost-efficient, and sustainable solutions and provide his company with a competitive advantage, he does not detail what these innovative tools or methodologies are or how they differ from what is already available in the market.

Again, without more information about the Petitioner's specific proposed endeavor, including its scope and how he plans to implement it, the Petitioner has not adequately established his proposed endeavor in a manner sufficient for us to determine that his future work in the United States will have substantial merit or national importance.

Finally, while we acknowledge the Petitioner's appellate arguments that he satisfied *Dhanasar's* first prong, they do not persuade us that the petition was erroneously denied. On appeal, the Petitioner generally asserts that the Director did not provide a sufficient explanation or analysis for the denial and did not address all the evidence of record. He contends that the record contained adequate documentation to demonstrate the substantial merit and national importance of his endeavor. In addition, the Petitioner alleges, among other things, that the Director improperly dismissed evidence showing the national importance of his proposed endeavor by "focusing on perceived discrepancies" in the business plan and support letters. He also submits additional evidence on appeal regarding the food waste management market's size and growth.

Upon review, we conclude the Director properly considered and weighed all the evidence, and appropriately found that the Petitioner did not meet the requirements of *Dhanasar's* first prong. As explained above, the Petitioner's proposed endeavor is not sufficiently specific or consistent to establish the substantial merit or national importance of his endeavor. Because the Petitioner has not clearly defined his proposed endeavor, we cannot conclude that he meets this prong or has otherwise established eligibility for a national interest waiver. While we acknowledge the Petitioner's arguments and explanations, they do not resolve the generalities, inconsistencies, and discrepancies regarding the specific nature and scope of his endeavor as discussed above. Therefore, they do not resolve our adjudication of the case.

Because the identified bases for denial are dispositive of the Petitioner's appeal, further analysis of his eligibility under the second and third *Dhanasar* prongs would serve no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.").

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. Therefore, he has not established that he is eligible for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.