U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37321391

Date: MARCH 13, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an industrial production management consultant, seeks employment-based second preference (EB-2) immigrant classification as 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 Texas Service Center denied the petition, concluding that the Petitioner did not qualify for EB-2 classification and 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 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;

[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 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 Petitioner submitted a business plan to establish a consulting company in [redacted] Florida focused on "industrial production management, aiming to optimize processes, improve quality, and promote sustainability in industrial operations." The business plan states the company will offer services in industrial production management consulting, process analysis and optimization, quality management, training and capacity building, implementation of technology and automation, supplier management, and environmental sustainability consulting.

A. EB-2 Classification

The Director determined the Petitioner was not eligible for EB-2 classification as an individual of exceptional ability. As the Petitioner is not eligible for a national interest waiver for the reasons discussed below, we do not reach and hereby reserve our determination of his eligibility for EB-2 classification. *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).

B. National Interest Waiver: Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* 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 established the substantial merit of his proposed endeavor. We agree.

The Director determined, 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.* 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 other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that the potential prospective impact of his proposed endeavor would extend beyond his company and its clients to impact his field more broadly at a level indicative of national importance.

On appeal, the Petitioner asserts his proposed endeavor has national importance because it will "transform U.S. manufacturing practices." The Petitioner claims that by "helping companies reduce operational inefficiencies and enhance product quality, the consultancy will elevate the competitiveness of U.S. manufacturers on a global scale." The Petitioner cites no evidence to support

this claim. The Petitioner also claims his proposed endeavor "aligns with national objectives to foster sustainability in key industries and reduce the environmental footprint of manufacturing processes." The Petitioner does not specify any national objectives with which his proposed endeavor would align, and he cites no evidence to support this claim. The Petitioner further claims his proposed endeavor aligns with "the national interest in fostering industrial competitiveness, technological innovation, and sustainability." Again, the Petitioner cites no evidence to support this claim.

The Petitioner further asserts his business plan "projects a significant contribution to the U.S. economy through job creation and the stimulation of economic activity." The Petitioner's business plan does not support this assertion. The business plan projects that the company will employ 7 people the first year, increasing to 21 people in the fifth year, and have a payroll of $590,000 the first year, increasing to $1,969,120 in the fifth year. These projections do not establish that the employment of up to 21 people with up to $1,969,120 in wages is indicative of national importance as the business plan states the manufacturing industry paid over $797 billion in wages in 2023. The business plan also projects the company will have a net profit of $649,456 in the first year, increasing to $737,466 in the fifth year. The business plan's financial forecast does not indicate that the company would have a substantial positive economic effect on the manufacturing industry which it states had a total revenue of seven billion dollars in 2023.

The Petitioner also claims his company will address national industrial challenges by optimizing production processes and improving the quality of goods and services in various industries. The Petitioner does not cite any evidence to support this claim and the record does not indicate the Petitioner's work would extend beyond his company's clients to impact his field more broadly at a level commensurate with national importance. *See id.* at 889 (explaining "we look for broader implications").

The Petitioner further asserts his company will enhance societal welfare by encouraging businesses to adopt environmentally friendly practices, will enhance the quality of life by improving business operations, and will address industrial and economic inequality by providing expert guidance to small and medium-sized enterprises that may not have the internal resources to optimize their operations. The Petitioner cites no evidence to support these claims.

The Petitioner also claims a letter from M-A-[2], Professor of Manufacturing and Engineering at [redacted] attests to the national importance of his proposed endeavor. M-A- expresses his opinion that the Petitioner qualifies for a national interest waiver. He states the Petitioner's company will offer services in industrial production management consulting, process analysis and optimization, quality management, training and capacity building, implementation of technology and automation, supplier management, and environmental sustainability. M-A- does not explain how any of these services are unique, innovative or otherwise have national or even global implications in the Petitioner's field. *See id.* (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

M-A- states the Petitioner's proposed endeavor "serves as a catalyst for broader societal and economic advancement by addressing critical industry needs, elevating industry standards, fostering innovation,

[2] We use initials to protect the privacy of the referenced individual.

and stimulating economic growth." M-A- discusses challenges facing the manufacturing sector, but does not establish how the work of the Petitioner's company would extend beyond its individual clients to address these challenges or otherwise impact his field more broadly in a manner indicative of national importance. M-A- also states the Petitioner's proposed endeavor aligns with national initiatives aimed at fostering innovation, sustainability, and economic growth. However, simply working in areas of national importance does not establish that a specific proposed endeavor will have a potential prospective impact of national importance. The assessment of national importance does not focus on the importance of national initiatives or issues in the field, but rather "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.*

In sum, the record does not establish that the Petitioner's 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 his field, or has other broader implications indicating national importance. Consequently, the Petitioner has not demonstrated that his proposed endeavor has national importance and he does not meet the first *Dhanasar* prong.

C. The Remaining *Dhanasar* Prongs

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. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7.

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.