U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37395908

Date: MAR. 18, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an industrial engineering manager and 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 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.

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

Id.

In this case, the Director determined that the Petitioner qualifies for underlying EB-2 classification as a member of the professions holding an advanced degree. The remaining issue to be determined is

[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).

whether the Petitioner has established that waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Petitioner claimed that his endeavor would help the national social and economic development in the United States by infusing the community with groundbreaking products and services, leveraging the most cutting-edge technology through his company, [redacted] LLC, which aims to provide comprehensive engineering services such as engineering management, mechanical manufacturing, automation, programming, assembly, and installation, mainly to clients in the automotive industry. The Director reviewed the totality of the evidence in the record, including the Petitioner's statements, business plans, letters of recommendation, letters of intent, education and credential information, and industry reports and articles, discussing the importance of industrial engineering as a profession and the positive impacts of immigrant workers and entrepreneurs.[2] In denying the petition, the Director concluded that the record does not establish that the Petitioner's proposed endeavor is of prospective national importance. Specifically, the Director determined that although the Petitioner indicated his proposed endeavor will address major challenges in the automotive and manufacturing industries and result in significant positive effects on industry-wide innovation and competitiveness, the evidence submitted is insufficient to show how his endeavor will positively impact these fields beyond the benefits enjoyed by his immediate clients. The Director further determined that the record does not demonstrate how the Petitioner's techniques, methodologies, or methods are sufficiently innovative or distinct from those in other similar businesses, to represent an improvement in the field with the potential to broadly impact the automotive industry or the industrial engineering profession and field.

The Director also noted the Petitioner's indication that his business would be established and operated in [redacted] Florida, which is recognized as a HUBZone by the U.S. Small Business Administration (SBA) and resolved that the Petitioner did not specifically indicate his endeavor would participate in the HUBZone program or that it would even be eligible to do so. Further, the Director observed that the Petitioner did not explain how merely locating his business in a HUBZone qualifies as job creation in an "economically depressed area."

Furthermore, the Director noted that the industry reports and articles, discussing the importance of industrial engineering as a profession and the positive impacts of immigrant workers and entrepreneurs, provide background information on the broader field or industry and the importance of immigrant workers and entrepreneurs to the U.S. economy in general but do not discuss the Petitioner's specific endeavor and its impact. Merely working in an important field is insufficient to establish the national importance of the proposed endeavor; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar,* 26 I&N Dec. at 889.

The Director then evaluated the Petitioner's business plan and determined that it did not provide sufficient basis as to how the projected hiring of 41 full-time employees in a period of five years demonstrates "significant potential to employ U.S. workers." *Id.* at 890. The Petitioner also did not explain how the specific endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.*

[2] This is a non-exhaustive list of evidence the Petitioner submitted in the record. While we may not discuss every document submitted, we have reviewed and considered each one.

Finally, the Director determined that the Petitioner established the proposed endeavor's substantial merit but not its national importance. Regarding substantial merit, the endeavor's merits may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889.

On appeal, the Petitioner does not submit additional evidence and generally asserts that the record includes sufficient evidence to show the national importance of his proposed endeavor. The Petitioner reiterates information found in previous statements and his business plan pertaining to the proposed endeavor, its impacts on the business and industrial engineering sectors industry, its impact on job creation in underserved areas, and its contribution to local economies and infrastructure development. The Petitioner indicates that his direct knowledge of business and sustainable practices will benefit any U.S. companies and individuals that need qualified professionals who possess expertise in industrial engineering, sales, strategic planning, and entrepreneurship. He then references industry reports and articles discussing the impact of immigrant entrepreneurs in the U.S. and contends that he "play[s] a vital role in the recovery of the U.S. economy and directly contribute[s] to the country's ongoing economic growth."

Upon review of the entire record, 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 has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS,* 87 F3d 5, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). As discussed above, the Director's decision summarized the pertinent evidence and analyzed why the Petitioner's endeavor did not meet the national importance element in *Dhanasar*.

In reviewing the record, we agree with the Director that the Petitioner has not established his proposed endeavor sufficiently extends beyond his company and its clientele to impact the industry or the field more broadly, at a level commensurate with national importance. In *Dhanasar*, we determined 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. Moreover, the Petitioner here did not demonstrate how his claimed employment and revenue projections, even if credible, have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. *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, he has not demonstrated eligibility for a national interest waiver, as a matter of discretion. 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) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.