U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37338151

Date: MAR. 18, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a sales and commercial representative of pharmaceutical and hospital products, 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 although the Petitioner qualified for classification as a member of the professions holding an advanced degree, 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 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 concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. The sole 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.

In his professional plan and statement, the Petitioner indicates that his proposed endeavor is to "advance [his] professional career as an entrepreneur and as a sales and commercial representative of hospital and pharmaceutical products" in the [redacted] Florida area. He explained that he will do so initially as the lead commercial representative for [redacted], a Brazilian pharmaceuticals and hospital products company, that, per a letter of intent in the record, has expressed interest in hiring him for that purpose.[2] In a supplementary statement, the Petitioner explained that his experience leading a Brazilian company "specializing in commercial and sales representation, particularly within the pharmaceutical and hospital products sector, has equipped [him] with the necessary skills to excel in the dynamic healthcare supply chain market of the United States."

The Director determined that while the Petitioner had established the substantial merit of the proposed endeavor, he had not shown its national importance, as required under the first prong of the *Dhanasar* analytical framework.[3] The Petitioner contends on appeal that the record establishes, by a preponderance of the evidence, the national importance of his proposed endeavor. Upon de novo review of the record, we disagree.[4]

The first prong of the *Dhanasar* analytical framework, 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.*

The Petitioner asserts that the national importance of his proposed endeavor is shown because he will further the business efficiency in the "medical-healthcare-pharma" industries in the United States using his "unique and outstanding skills, expertise and experience." Evidence in the record, including recommendation letters, the [redacted] letter expressing the company's intent to hire him, and the Petitioner's resume, reflect the Petitioner's skill and expertise in the field. However, the focus in

[2] While a job offer is not required, we may consider it relevant to demonstrate the circumstances or capacity in which the petitioner intends to carry out the proposed endeavor and the feasibility of that plan.
[3] The Director did not reach whether the Petitioner satisfied the second and third prongs of the *Dhanasar* analytical framework.
[4] While we do not discuss all of the evidence in the record individually, we have reviewed and considered the record in its entirety.

determining national importance is on the proposed endeavor; a petitioner's experience and efficacy, and the overall likelihood of success, is relevant to the second prong, whether the petitioner is well positioned to carry out the endeavor. *Id.* at 890.

The Petitioner further argues that the proposed endeavor is of national importance because it has significant potential to fulfill national objectives and will also support local initiatives. He explains that he will collaborate with healthcare institutions and businesses in the [redacted] Florida area to strengthen the community's health infrastructure.[5] However, the Petitioner does not offer evidence, such as letters from interested government agencies or quasi-governmental entities in the United States, to demonstrate that they have taken a direct interest in it in a manner that may reflect its national importance.[6]

The Petitioner asserts that his proposed endeavor has the potential to address the demand for highly skilled professionals in hospital and pharmaceutical product sectors. The Petitioner also asserts that the proposed endeavor has the potential to address a shortage of healthcare professionals such as pharmacists, thus demonstrating its national importance. He first explains that the Covid pandemic highlighted the importance of having a strong supply chain for hospital and pharmaceutical devices and equipment. The Petitioner contends that this highlights the need for skilled individuals such as himself to "promote more effective collaboration among commercially partnered nations" and establish strategies to guarantee access to these materials. Industry and market reports in the record reflect the need for a strong pharmaceutical and hospital equipment supply chain, as well as the importance of, shortage of, and related demand for personnel providing the services described by the Petitioner. We acknowledge the Petitioner's arguments regarding the shortage of healthcare and pharmaceutical professionals. However, a shortage of professionals alone does not render the Petitioner's proposed endeavor nationally important under the *Dhanasar* framework. Rather, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner contends on appeal that the national importance of the proposed endeavor is demonstrated in the positive economic impact that will be realized when, through his entrepreneurial approach, it will foster the exchange of technology among commercially partnered nations and because it will create jobs both fo[redacted]nd its business partners. He further argues that the Director failed to consider the relevant market impact of the proposed endeavor in denying the petition and did not acknowledge "specific, well-documented projections" demonstrating the proposed endeavor's potential impacts.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting its "potential prospective impact." *Id.* at 889. Upon review, the record, including the updated professional plan and statement submitted on appeal, both provide statistics describing the economic impact of the healthcare and social assistance sector in Florida as well as the national economic impact of hospitals both as employers and as purchasers of goods and services. However. the Petitioner does not offer specific, well-documented projections for the proposed endeavor itself that might establish its prospective impact through job creation or through

[5] We note that the Petitioner does not identify the specific initiatives that his proposed endeavor aligns with or supports.
[6] *See generally* 6 *USCIS Policy Manual* F.5(D)(4), www.uscis.gov/policy-manual.

the exchange of technology, as asserted on appeal. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the potential prospective impact of his proposed endeavor stands to offer broader implications in his industry or to generate substantial positive economic effects in the United States as a whole.

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. This identified reason for dismissal is dispositive of the Petitioner's appeal, and thus, we decline to reach and hereby reserve remaining arguments concerning his eligibility under the second and third prongs of the *Dhanasar* framework. *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

As the Petitioner has not met the requisite 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. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.