U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30362070

Date: MAR. 19, 2024

Appeal of Texas Service Center Decision

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

The Petitioner is an accountant who seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or an individual of exceptional ability in the sciences, arts, or business, 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 determined that despite qualifying for the underlying EB-2 visa classification as an individual holding an advanced degree,[1] the Petitioner did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. Applying the three-prong analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), the Director concluded that although the Petitioner's proposed endeavor has substantial merit and the Petitioner demonstrated that he is well-positioned to advance the endeavor, the Petitioner did not establish that his endeavor has national importance, or that on balance, waiving the job offer requirement would benefit the United States. 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 because the Petitioner did not establish that his specific proposed endeavor has national importance and thus, he did not meet the national importance requirement of the first prong of the *Dhanasar* framework. Because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the third *Dhanasar* prong. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary

[1] The record contains a degree certificate and corresponding transcript showing that the Petitioner completed required coursework and was awarded a bachelor's degree in accounting sciences in January 2010. The record also contains evidence showing that the Petitioner subsequently attained at least five years of progressive experience in his specialty as required by 8 C.F.R. § 204.5(k)(2).

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).

Further, we adopt and affirm the Director's analysis and decision regarding the national importance of the Petitioner's endeavor. *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 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

In addressing the issue of national importance within the context of the Petitioner's proposed endeavor to own and operate an accounting firm, the Director considered the supporting evidence, such as the Petitioner's business plan and industry reports. The Director determined that the projected hiring of five full-time employees in a community with a population of approximately two million people is not an indication of the endeavor's significant potential to employ U.S. workers or offer other "substantial positive economic effects" at the level contemplated in *Matter of Dhanasar*. *Id.* at 890. The Director also explained that because the submitted industry reports highlight the importance of the Petitioner's field rather than focusing on the proposed endeavor, they do not establish that the endeavor would impact the labor shortages discussed in the reports or that the endeavor would have national or even global implications within the field of accounting. In sum, the Director determined that the impact of the Petitioner's endeavor would not extend beyond the Petitioner's business and clientele to more broadly impact the accounting field or create a broad impact at a level that is commensurate with having national importance.

On appeal, the Petitioner contends that the Director did not adequately evaluate previously submitted evidence. However, the Petitioner does not specify which evidence he feels the Director overlooked or explain how such evidence addresses the Director's adverse findings on the issue of national importance. The Petitioner also lists previously submitted recommendation letters, but he does not discuss how the letters are relevant to the issue of national importance given that they address the Petitioner's qualifications and prior work and make no mention of the proposed endeavor. And while the Petitioner lists an accountant's capabilities and explains how accountants can benefit their employers or clients, this argument unnecessarily centers on the field of the Petitioner's endeavor rather than the endeavor itself, which is the focus of a national importance determination. *See id.* at 889. The Petitioner in this instance does not provide evidence showing that the benefits from his specific endeavor would extend beyond his company and his clients offering such benefits as job creation, particularly in an economically depressed area, enhanced societal welfare, or other benefits on a broad scale as in *Matter of Dhanasar*.

In sum, the Petitioner has not established that the previously submitted evidence demonstrates that his endeavor meets the national importance element of the first prong of the analytical framework in *Matter of Dhanasar*.

ORDER: The appeal is dismissed.