U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37174005

Date: MAR. 24, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a business intelligence analyst and entrepreneur, 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 Texas Service Center denied the Petitioner's Form I-140, Immigrant Petition for Alien Workers, concluding that the Petitioner established his underlying eligibility for EB-2 classification as an advanced degree professional, but that he did not establish he merited a national interest waiver. 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 is an advanced degree professional and therefore qualifies for the underlying EB-2 visa classification. Thus, the remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver.

The Petitioner's proposed endeavor is to work as a business intelligence consultant and establish a related business in the United States. The Director denied the Petitioner's national interest waiver, concluding that the Petitioner had not established any of the prongs under the *Dhanasar* analytical framework as required for the waiver, namely that his proposed endeavor was nationally important, that he was well positioned to advance the proposed endeavor, and that on balance, waiving the job offer requirement would benefit the United States. *Id.* On appeal, the Petitioner claims the Director erred in its conclusion, and that he meets all three prongs under the *Dhanasar* analytical framework and merits a national interest waiver.

A. Substantial Merit and National Importance

The first prong, 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, and "look for broader implications." For instance, we noted in *Dhanasar* that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* Further, "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. The Director concluded that the Petitioner's proposed endeavor had substantial merit under *Dhanasar* prong one. We agree. However, for the reasons discussed below, we find that the Petitioner has not established eligibility for a national interest waiver under the *Dhanasar* analytical framework, as he has not established the national importance of his proposed endeavor.

The Petitioner provided, in part, a cover letter and a professional plan wherein he stated that his proposed endeavor was to work as a business intelligence consultant and create a company that provides "consulting services and customized solutions in business intelligence, data analysis, and digital transformation for companies in the United States." He explained that the target audiences for these services were "medium to large companies across various sectors, including retail FMCG (Fast-Moving Consumer Goods), technology, healthcare, and finances," and that the services were "aimed at executives, managers, and data analysis teams seeking to maximize the value of their data to drive business growth." He claimed his proposed endeavor is nationally important because his services will

drive economic growth and competitiveness, foster innovation and technological advancement, contribute to job creation and workforce development, prioritize data security and privacy, and will help companies in critical sectors such as healthcare, finance, retail, and technology. The Petitioner intends to establish his company in Austin, Texas, and including himself, claims he will employ up to nine employees in the first year of operation, and 41 by year five of operations.

Additionally, the Petitioner submitted an expert opinion letter that discusses the Petitioner's experience and the services the Petitioner's company will provide, while generally claiming that the Petitioner's proposed endeavor is nationally important because the company has significant potential to employ U.S. workers and have other substantial positive economic effects; will broadly enhance societal welfare or cultural enrichment; and will impact a matter described by a government entity as having national importance or is the subject of national initiatives. He also submitted eight letters of recommendation from former coworkers that generally speak to his character and professional experience. Finally, the Petitioner submitted articles relating to the business intelligence and data analytics fields as well as the impact these fields have on the U.S. economy.

We acknowledge the evidence of the Petitioner's education and experience in the field of business intelligence, including the information contained in his resume and letters of recommendation. This evidence, however, relates to whether the Petitioner is well positioned to advance his proposed endeavor rather than whether his proposed endeavor is nationally important. Similarly, we note the articles he provided that discuss the importance of the business intelligence and data analytics fields. As noted above, however, our focus in assessing national importance is on the specific endeavor that the Petitioner proposes to undertake and its prospective impact rather than the importance of the industry or profession in which the individual will work. *See id.* at 889.

Here, the Petitioner has not offered sufficient information and evidence to demonstrate his work as a business intelligence consultant and entrepreneur would extend beyond his clients, or that the services his company will provide offer original innovations to advance, or will otherwise have national or global implications in, the field of business intelligence, commensurate with national importance. The Petitioner's general assertions in his cover letter and professional plan, as well as those made in the expert opinion letter, regarding the contributions his proposed endeavor may make to its target audiences lack sufficient probative detail and are not corroborated in the record to establish the asserted contributions would have broader implications in the field or would have other broader prospective impact. Similarly, the letters of recommendation and articles submitted by the Petitioner do not address the specific endeavor or the services the Petitioner would provide through his company as part of his endeavor, nor do they discuss with any specificity the impact or broader implications of those plans to corroborate the claimed impact he asserts would result from his specific endeavor.

Finally, while the Petitioner and the expert opinion letter generally claim his proposed endeavor would support economic growth and create new employment opportunities, the unsupported revenue and employment projections in the business plan and generalized conclusions in both the business plan and the expert opinion letter are insufficient to demonstrate that the proposed endeavor would have national economic impact through job creation and taxes generated, as the Petitioner claims. Also, even if the record showed that the financial projections in the business plan regarding revenue growth and job creation are well-founded, it does not establish that the projected revenue or number of jobs expected to be created by the proposed endeavor initially, or over a five-year period, would have

substantial positive economic effects, particularly in an economically depressed area, or that his proposed endeavor has significant potential to employ U.S. workers. Accordingly, we find the Petitioner has not established that his proposed endeavor is nationally important.

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, requiring that he demonstrate his proposed endeavor is nationally important. He therefore has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

As noted above, the Director also concluded that the Petitioner did not establish that he was well positioned to advance his proposed endeavor, or that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification, as are required under prongs two and three of the *Dhanasar* analytical framework. While the Petitioner also contests these conclusions on appeal, since our determination that he did not establish his proposed endeavor is nationally important is dispositive of his appeal, we decline to reach and hereby reserve the appellate arguments on these issues. *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).

ORDER: The appeal is dismissed.