U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37408931

Date: MAR. 24, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a general and operations manager, 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 the Petitioner's eligibility for the requested national interest waiver. The matter is now before us on appeal. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. 8 C.F.R. § 204.5(k)(2).

Once a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *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 a 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.

II. ANALYSIS

The Director determined that the Petitioner qualified for the underlying EB-2 classification as a member of the professions holding an advanced degree. Therefore, the remaining issue is whether the Petitioner established eligibility for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with the Director's conclusion that the proposed endeavor has substantial merit as it falls within the range of areas of substantial merit, namely business. *Id.* However, while the Petitioner has established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner stated his proposed endeavor in the United States was to create "an office for Business Organization and Optimization in the area of organizational development," namely a business that would "provide professional solutions services for administrative management issues, strategic and organizational planning, improvement of business processes, development of planning and strategy, improvement of productivity, and financial management of law firms." The Petitioner indicated his proposed consulting company would have national importance because it would contribute to the economy, improve competitiveness in many industries and sectors, help identify and develop talent through training and development programs, and strengthen the organizational cultures of companies in the United States. The Petitioner further emphasized that his proposed endeavor would directly create seven new employment opportunities in the United States during its first five years of operation and "move the American economy into different market sectors with increased employability and tax collection." In addition, the Petitioner pointed to U.S. Citizenship and Immigration (USCIS) guidance on national interest waivers highlighting entrepreneurs, asserting that his proposed endeavor would broadly enhance societal welfare.

In response to the Director's request for evidence (RFE) asking for more clarification on the substantive nature of the Petitioner's proposed endeavor, he stated that his new company would provide critical services to law firms, business consulting enterprises, and educational institutions addressing "significant national challenges such as economic stability, workforce skills gaps, and technological advancement." The Petitioner emphasized his company would develop an online

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

platform using a thirty-party software, [redacted] to "provide continuous support, real-time consultation, and seamless integration of our services into clients' operations." The Petitioner asserted that clients would be able to "upload financial document directly to the platform" where "learning algorithms will analyze data and provide an assessment report," including a focus on "extrajudicial debt negotiation." The Petitioner also indicated that his proposed endeavor would have positive economic effects on law firms through the company's "financial modeling services" allowing them to "reduce costs and enhance profitability" to remain competitive in a "saturated market." Further, the Petitioner stated that the services provided by his proposed company through its online platform would provide positive economic effects for business consulting companies and generate employment in educational institutions through the "implementation of technical courses…targeted training programs designed to equip students with the skills needed for high-demand occupations."

The Petitioner again stated his proposed endeavor would enhance societal welfare by addressing "fundamental economic and educational challenges" through his "strategic services, innovative training programs, and robust support systems" leading to "improved economic prospects and well-being of individuals and communities across the nation." He also indicated his proposed endeavor would impact several matters the government identified as having national importance, mainly through his provision of workforce training services, including "The American Jobs Plan," set to provide training to high-demand occupations; "The Workforce Innovation and Opportunity Act," emphasizing workforce development through training; "The Technology Modernization Fund;" the "Higher Education Act;" and the "National Apprenticeship Act."

The Director concluded the record did not demonstrate the national importance of the Petitioner's proposed endeavor reasoning that he overemphasized his skills and work ethic in a provided expert opinion and support letters, evidence lacking support for his accomplishments and impact in his asserted field. The Director determined the Petitioner did not establish that his proposed endeavor, his consulting company, would have impacts beyond his customers and have national or even global implications. The Director also concluded the Petitioner did not sufficiently demonstrate that his proposed endeavor would have substantial positive economic impacts as contemplated by *Dhanasar*.

On appeal, the Petitioner contends that the Director misunderstood the scope and potential scale of his endeavor, asserting that it would address critical needs in the U.S. legal and business sectors through administrative management solutions, strategic planning, and business process optimization. The Petitioner emphasizes the size of the legal consulting industry, according to him exceeding $329.9 billion in 2023, and states "this scale alone underscores the substantial merit of the industry and its impact on national economic growth." The Petitioner points to an expert opinion submitted from a [redacted]F-Q- and asserts this corroborates the broader economic benefits of his work, specifically, "the ripple effect of optimizing business processes [that] extends beyond the consulting firm itself to benefit U.S. law firms, clients, and other industries, thereby satisfying the national importance requirement."

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[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.

On appeal, the Petitioner points to the size of his asserted field, legal consulting, contending that the size of this industry demonstrates the impact of his proposed endeavor on national economic growth. However, as we have stated, our focus is not on the importance of the field within which the Petitioner would work, but the potential national implications of his specifically proposed endeavor, including any substantial positive economic effects. Therefore, emphasizing the size or importance of an industry alone is not sufficient, but the Petitioner must demonstrate that his proposed endeavor would likely lead to substantial positive economic effects on a national level in an industry with asserted revenues over $329 billion in 2023.

The Petitioner asserted a confusing array of generic business plans in varying industries leaving substantial question as to the potential prospective impact of his proposed endeavor on a national level. For instance, the Petitioner asserts that he would focus on all businesses and the legal field specifically, organizational development, administrative management issues, financial management, training and development programs, development of an online platform using a thirty-party software, extrajudicial debt negotiation, the implementation of technical training courses, among other proposed business plans in different fields. The Petitioner's proposed endeavor is focused on a varying range of fields and professional services, leaving question as to whether any would have a national impact, particularly since he provides little detail as to what solutions he would provide to impact administrative management, financial management, or training amongst companies and law firms.

In response to the RFE, the Petitioner emphasized his proposed creation of a third-party software tool to provide continuous support and real-time consultation, including the use of learning algorithms to analyze data and assessment reports. However, the Petitioner did not mention this tool in support of the petition, nor is it discussed on appeal, and he submitted little detail and documentation to substantiate how these plans would be realized. Likewise, the Petitioner refers to "extrajudicial debt negotiation" and "financial modeling services" to reduce costs within law firms in a "saturated field," but there are few specifics and little evidence to clarify the nature of the proposed extrajudicial debt negotiation services he would provide or the financial modeling services he would deploy. In sum, the Petitioner did not present sufficiently clear and credible business plans to support that his proposed endeavor would have a potential prospective national impact in a claimed $329 billion industry. The Petitioner does not sufficiently detail and document how his work in the consulting field would be materially different from any other similar experienced employee working this field, leaving doubt as to likelihood of its prospective national impact. The Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner further emphasizes an expert opinion letter he submitted from a [redacted] F-Q-, asserting that this letter supports "the ripple effect" of him optimizing business processes extending to U.S. law firms, clients, and other industries. First, this assertion is reflective of the lack of focus in the Petitioner's business plans and the industry within which he will operate. It is reasonable to conclude that it would be difficult to have a national impact in any field, such as the law firm industry in the United States, let alone "other industries." For instance, the expert opinion asserted that the Beneficiary's endeavor was "nested in Management Consulting," while also pointing to him "offering

advisory services to various businesses, nonprofits and public-sector entities" focusing on an "array of specialties." In contrast, the Petitioner specifically emphasizes law firm consulting services on appeal. Therefore, much like the Petitioner's asserted business plans, the expert opinion discusses a wide range of potential services, industries, and impacts leaving uncertainty as to both the nature of the proposed endeavor and it potential prospective impact. The expert opinion also discusses the Petitioner's skills and expertise in the legal field attained while he was employed abroad; however, while we recognize that he gained experience while employed abroad, a petitioner's expertise and record of success are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated the national importance of a specific proposed endeavor.

In addition, both the Petitioner and the provided expert opinion assert that the Beneficiary's proposed endeavor would broadly enhance societal welfare and cultural enrichment. For example, the expert opinion states that the Petitioner's broad range of potential services would allow companies to streamline their operations and technology integration and prioritize their employees, leading to improved workplaces and work life balance. Again, the expert's assertions are based in an ambiguous array of services and industries and potential societal impacts making in uncertain that the operations of the new company would substantially impact so many aspects of American life on a national level, including the workplaces and work life balances of American employees, the workplace skills of these employees, workplace diversity, ethical business practices, the consumer experience, among other claimed societal impacts. The Petitioner also asserted in response to RFE that his proposed endeavor would lead to "improved economic prospects and well-being of individuals and communities across the nation." However, in the case of the expert opinion and the Petitioner's asserted societal impacts, neither has provided sufficient explanation or supporting documentation as to how the proposed endeavor would have such a broad-based national impact on so many aspects of American society. Generalized conclusory statements that do not identify a specific impact to the field have little probative value. *See e.g., 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

The record also does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 890. Although the Petitioner submitted vague and non-specific business plans asserting the business would hire seven employees after the first five years of operation, it did not properly substantiate how this would have a national level impact on an industry he states accounts for over $329 billion annually, assuming of course that the industry within which he would operate was sufficiently clear. The Petitioner has not submitted specific and targeted business plans but provides generic assertions about impacting numerous aspects of the economy, each which could be reasonably deemed separate, large, industries. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, he has not provided sufficient explanation of the prospective impact directly attributable to his proposed work, or established how his endeavor would impact an economically depressed area. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.