U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37317010

Date: MAR. 25, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a telecommunications 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 section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that 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. 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:

- 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.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Petitioner's academic record demonstrates that he obtained a master of science degree in financial risk management from the [redacted] in [redacted] 2016. According to his business plan, he intends to run a business that will empower rural and remote communities in the United States by improving their connectivity and communication infrastructure and assist mobile network operators with cutting-edge planning solutions that enable seamless connectivity and exceptional user experiences while driving innovation and sustainability in the telecommunications industry.

The Director determined the Petitioner established his eligibility for the EB-2 classification as an advanced degree professional. The Director also concluded that while the Petitioner showed the substantial merit of his proposed endeavor, he did not demonstrate its national importance to meet *Dhanasar's* prong one requirements and, as a result, that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

On appeal, the Petitioner submits a brief asserting that the Director violated his due process rights by not analyzing each of the Dhanasar prongs. However, the issue of whether the Petitioner established the national importance of his endeavor is dispositive, and the Director did not err in ending the analysis after the Petitioner did not establish the first Dhanasar prong. 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). Further, as discussed below, we similarly conclude that the Petitioner has not established the national importance of his proposed endeavor, which is dispositive of this appeal, and we also reserve the issues of whether he has demonstrated that he meets the second and third Dhanasar prongs. See id.; 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).

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Matter of Dhanasar, 26 I&N Dec. at 889. "We look for broader implications" of the proposed endeavor and explained that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." Id. at 890. 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.

[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 Petitioner generally asserts that the Director did not apply the proper standard of proof in this case and erroneously applied the law. However, he does not identify examples in support of his assertions.

The Petitioner also contends that the Director failed to properly consider the evidence of the record. The Petitioner references documents the Director did not give "due regard," including his resume, evidence of his work in the field, and his letters of recommendation. Based on our de novo review, these documents describe the Petitioner's knowledge, skills, and abilities, which relate to the second prong of the Dhanasar framework and shifts the focus from the proposed endeavor to the foreign national. Id. In our analysis of prong one, our focus is on the specific endeavor that the individual proposes to undertake. Id. at 889. The referenced evidence does not address the Petitioner's proposed endeavor and does not explain how the Petitioner's endeavor is nationally important.

The Petitioner also claims the Director did not properly analyze the submitted industry reports and articles which, for example, demonstrate that his proposed endeavor aligns with U.S. initiatives to improve telecommunications infrastructure. While they may assist in establishing the proposed endeavor's substantial merit, they make no reference to his specific proposed endeavor. Further, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. See id. at 889 (explaining that in determining national importance, we do not focus on the importance of the field, industry, or profession in which the individual will work but on "the specific endeavor that the foreign national proposes to undertake").

The Petitioner also asserts the Director did not fully consider his business plan. However, the Director raised a number of issues with the business plan that are not addressed on appeal. For example, the Petitioner asserts that his proposed endeavor will address critical gaps in underserved and rural areas by, for instance, improving the quality and availability of mobile services. As the Director explained, the Dhanasar decision contemplates that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." Id. at 893. However, the Petitioner did not identify in the record below or now on appeal the methods and improvements he intends to implement. As the Director concluded, it is not apparent how the Petitioner's products or services would have global or national implications to the field beyond the individuals or entities utilizing them. Moreover, we add that the Petitioner has not established the extent to which his proposed endeavor's methods or strategies improve upon those already available and in use in the United States such that his proposed endeavor would have national or global implications within his field or for the United States.

Further, the Petitioner re-alleges that his business plan demonstrates his proposed endeavor will create jobs in economically distressed regions, including HUBZones.[2] However, as the Director explained, the Petitioner did not provide evidence that the area where the company intends to operate is economically depressed, or that the specific proposed endeavor has significant potential to employ

[2] The HUBZone program is implemented by the U.S. Small Business Administration (SBA) and encourages economic development in historically underutilized business zones. HUBZone program, U.S. Small Business Administration, https://www.sba.gov/federal-contracting/contracting-assistance-programs/hubzone-program#id-hubzone-program-qualifications. The SBA provides specific program qualifications for the HUBZone program, including that the business be at least 51% owned and controlled by U.S. citizens, a Community Development Corporation, an agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe. Id.

U.S. workers or otherwise offer substantial positive economic effects, or that the Petitioner would be eligible to participate in the HUBZone program. On appeal, the Petitioner does not address these issues. Rather, he states his company headquarters has been established in [redacted] Virginia and again relies on data from the business plan, claiming, for example, the company will generate over eight million dollars in revenue over the next five years. However, the Petitioner did not provide the basis for his projections in the business plan or in the remaining record, nor did he establish the import of such data and that such future employment figures would use a significant population of workers in the area or would substantially impact job creation and economic growth, either to the [redacted] Virginia region or the U.S. economy more broadly at a level commensurate with national importance. Matter of Dhanasar, 26 I&N Dec. at 890.

Upon de novo review, we conclude that the Director properly evaluated the evidence in determining the Petitioner had not established by a preponderance of the evidence that his proposed endeavor has national importance. The record does not show that it stands to sufficiently extend beyond his company's clients to impact his field more broadly in a manner indicative of national importance. Nor has the Petitioner established that his proposed endeavor has significant potential to employ U.S. workers or would have other substantial positive economic effects.

III. CONCLUSION

The Petitioner has not established the national importance of his proposed endeavor, a requirement to establishing prong one of *Dhanasar's* framework. Consequently, the Petitioner has not demonstrated that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

ORDER: The appeal is dismissed.