U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37382488

Date: MAR. 28, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an 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* 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 that a waiver of the required job offer, and thus of a 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

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner endeavors to establish and serve as chief executive officer (CEO) of [redacted] "a New York-based consultancy offering risk management and internal auditing services aimed at small and medium-sized businesses. The Petitioner asserts these offered services "will help companies navigate financial risks, improve compliance with regulatory standards, and ensure financial stability."

The Director determined that though the Petitioner has demonstrated his endeavor has substantial merit, he has not established the national importance of the endeavor; that he is well-positioned to advance the proposed endeavor; or that, on balance, waiving the job offer requirement would be of benefit to the United States.

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. *Id.* In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and 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 contends the Director's denial of his petition "was in error, contrary to the evidence, and inconsistent with established law, legal precedents, and policy." Specifically, the Petitioner asserts his endeavor has broader economic implications such as participating in the financial services sector, "a critical driver of the U.S. economy." The Petitioner also asserts the focus of his endeavor, enhancing risk management and internal auditing practices, not only aligns "with national economic priorities focused on strengthening the financial health of businesses and supporting sustainable economic growth," but will assist in resolving insolvency rates, reduce financial risks and fraud, and contribute to economic resilience. The Petitioner claims his proposed endeavor also "supports key national priorities," including "growth through supporting small businesses, increasing financial literacy, and revitalizing Opportunity Zones." We acknowledge the importance of the priorities and fields relevant to the Petitioner's proposed endeavor. However, merely working in an important field is insufficient to establish the national importance of a proposed endeavor. The question is not the importance of the field, industry, or profession in which the Petitioner may work or affect; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. Despite the Petitioner's assertions, he has not sufficiently demonstrated his own endeavor would extend beyond his company and its clients in a manner that has national or global

impact in these fields, or broader implications arising from the endeavor at a level commensurate with national importance.

The Petitioner also asserts his endeavor incorporates "a shift from traditional audit techniques to a risk-based approach, which is a modern and critical development in the field." The Petitioner characterizes his methodology as "innovative," with the potential to improve "the national regulatory environment and corporate governance." The Petitioner relies on previously submitted letters of recommendation in asserting he has demonstrated his use of "a methodology that differs from what is already available." The record includes letters of recommendation from former employers attesting to the excellence of the Petitioner's work for their organizations. These letters also acknowledge the Petitioner's role in "the development and implementation of risk-oriented auditing practices." One letter indicates the Petitioner "conceived" of, "meticulously developed," and pioneered "a risk-oriented internal audit approach." However, in a personal statement, the Petitioner acknowledged that an "international practice of using a risk-based approach in internal audit," already existed in the early 2000s; he asserted only that he was "one of the first" to put this international approach into practice in Kyrgyzstan in 2010. Overall, the Petitioner has not demonstrated similarly employing a risk-based approach in his proposed endeavor in the United States would constitute current innovation or would otherwise have broader implications in the field.

The Petitioner asserts his business plan "includes a detailed hiring strategy that will lead to direct and indirect job creation in economically distressed communities." The Petitioner claims his company will have hired 11 employees by its fifth year and generate an estimated 31 indirect jobs "through partnerships with service providers and contractors." The Petitioner also anticipates "sales growth from $381,250 in Year 1 to $791,500 in Year 5." The Petitioner asserts these figures "are grounded in the [P]etitioner's extensive experience in the financial industry and his demonstrated success in similar roles." However, we concur with the Director that the record does not contain sufficient supporting evidence to corroborate the projected financial figures for [redacted] or establish the significance of the data to show the endeavor would provide substantial economic benefits to the region or national economy more broadly. While the Petitioner's proposed endeavor may stimulate economic activity to some level, it is also the Petitioner's burden to demonstrate the economic effects of his proposed endeavor will be substantial and at a level commensurate with national importance. Here, the Petitioner has not sufficiently demonstrated the proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects beyond his company and its clients, such that it would have broader implications for the United States.

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary 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).

III. CONCLUSION

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

ORDER: The appeal is dismissed.