U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 31124989

Date: MAY 10, 2024

Appeal of Texas Service Center Decision

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

The Petitioner is a telecommunications engineer and electronics specialist 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 denied the petition, concluding 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 the Petitioner: (1) did not establish that his endeavor has national importance,[2] (2) did not demonstrate that he is well-positioned to advance the endeavor, and (3) did not show 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 remaining *Dhanasar* prongs. *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 engineering, specializing in "Multichannel telecommunications systems," in July 2011. 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).

[2] The Director determined that the Petitioner's endeavor was shown to have substantial merit.

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).

The Director acknowledged the Petitioner's proposed endeavor to work as an engineer in telecommunications and electronics "for large companies such as Space X and Boeing" an noted that the Petitioner claim his endeavor would contribute to job creation and to the economic and social well-being of communities by improving access to high-speed internet. The Director also referenced the Petitioner's discussion of his endeavor in a supporting statement and acknowledged supporting evidence, such as publications discussing government initiatives to assist small businesses and attract STEM talent and an article highlighting the importance of safeguarding 5G networks. However, the Director determined that merely working in an important field or showing that the proposed endeavor is related to STEM is not sufficient to demonstrate that the endeavor itself has national importance.

The Director also pointed out that the Petitioner submitted job offer letters for positions that were different from the proposed endeavor. Despite acknowledging that a job offer is not required to establish eligibility for a national interest waiver, the Director properly deemed the letters to be relevant indicators of the incongruity between the proposed endeavor and the jobs being offered, none of which was for an engineer in telecommunications and electronics. In fact, one of the offers was for a telecommunications equipment installer and repairer who would *report to* a telecommunications engineer.

Further, the Director found that the record lacks evidence that any projected U.S. economic impact would be attributable to the Petitioner's proposed endeavor or that the endeavor would operate on a large enough scale as to rise to the level of national importance. The Director concluded that the Petitioner did not demonstrate that his endeavor has the potential to offer substantial positive economic effects for our nation or that the impact of the Petitioner's work would benefit the regional or national economy at a level that is commensurate with having national importance.

On appeal, the Petitioner contends that his work will broadly impact the field of endeavor, claiming that he will "use his expertise" to develop broadband networks and produce chips, microchips, and electronic devices and address the nationwide and global shortage of semiconductors as well as the shortage of telecommunications professionals. However, the Petitioner does not explain how his individual work will effectively address these shortages or trigger an impact at the national importance level. In fact, the Petitioner has not provided sufficient evidence about the scope of his proposed work. When assessing national importance, we must focus on the potential impact of the specific proposed endeavor. *See Matter of Dhanasar*, 26 I&N Dec. at 889. While we recognize that the field of telecommunications engineering makes important contributions to internet capabilities thereby affecting U.S. economic growth and competitiveness, the Petitioner has not elaborated on the types of

projects he would undertake in his endeavor and thus we cannot conclude that his work would have national implications in the telecommunications field or on the national economy.

The Petitioner also highlights a previously submitted expert opinion letter from a U.S. university associate professor of electrical and computer engineering, arguing that the letter demonstrates the national importance of the proposed endeavor based on the Petitioner's "capacity to provide innovative solutions" thus impacting the economy and technological competitiveness. However, while we recognize that the Petitioner's work would contribute to nationally important goals, the professor's letter does not demonstrate that the Petitioner's specific endeavor has national implications. The letter focuses primarily on the telecommunications field rather than on the Petitioner's particular, proposed work and therefore does not establish the national importance of the proposed endeavor.

The Petitioner also stresses his skillset and work experience, asserting that his "past work has already had national implications." However, we note that the Petitioner's skills and achievements are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar,* 26 I&N Dec. at 890. Evidence of the Petitioner's prior successes as a telecommunications engineer, while potentially useful in determining whether he is well-positioned to advance the endeavor, do not demonstrate the national importance of that endeavor.

In sum, the Petitioner has not provided evidence that his endeavor meets the national importance element of the first prong of the analytical framework in *Matter of Dhanasar.* As such, the Petitioner has not overcome the Director's conclusion regarding this issue.

**ORDER:** The appeal is dismissed.