U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34868349

Date: NOV. 06, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a procurement coordinator, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional or a person of exceptional ability, as well as a discretionary 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 although the Petitioner qualifies for the EB-2 classification as an advanced degree professional, the record did not establish that a waiver of the required job offer, and thus labor certification, would be in the national interest. This matter is now before us on appeal, which we review de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). The Petitioner bears the burden of establishing his eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon de novo review, we will dismiss the appeal.

I. LAW

To be eligible for a national interest waiver, a petitioner must first establish eligibility for the underlying EB-2 visa classification, as an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A), (B) of the Act; 8 C.F.R. § 204.5(k)(1).

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they warrant 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, which states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner establishes that: (1) the proposed endeavor has both substantial merit and national importance; (2) they are well positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer and thus labor certification requirements would benefit the United States. *Id.*

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts in holding that USCIS' decision on a national interest waiver is discretionary in nature).

II. ANALYSIS

The Director found (in a request for evidence), and the record—including a copy of a Brazilian engineer degree, school transcript, diploma evaluation, and letters from current or former employers—indicates, that the Petitioner qualifies for the EB-2 classification as an advanced degree professional holding a U.S.-equivalent bachelor's degree with at least five years of progressive post-degree experience in the field of specialty. 8 C.F.R. §§ 204.5(k)(1)-(2), (k)(3)(i)(B).

The remaining issue on appeal is whether he warrants a national interest waiver under the *Dhanasar* framework and its requisite three prongs. The Director determined that although the Petitioner's proposed endeavor has substantial merit, the evidence did not show that it has national importance and thus he did not meet *Dhanasar*'s first prong.[2] On appeal, he does not submit any new evidence but reiterates his eligibility for a discretionary national interest waiver, and alleges that the Director failed to properly consider all relevant evidence and apply the *Dhanasar* framework. We conclude that the evidence does not demonstrate that the proposed endeavor has national importance.

The Petitioner intends to continue his career in the procurement industry by providing "valuable, nationally important services" in the United States with a focus in improving "purchasing flow, supplier diversity, and optimizing resource allocation" that he claims will in turn "support and facilitate the growth" of various other industries and the U.S. economy. He specifically intends to achieve this endeavor by working for "U.S. companies seeking to modernize and optimize" their supply and procurement logistics and management and impactfully carrying out his duties as a company procurement coordinator or consultant or other "similar positions."[3]

Dhanasar's first prong, substantial merit and national importance, focuses on the specific endeavor he proposes to undertake. *Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In assessing whether the proposed endeavor has national importance, we consider evidence of its potential prospective impact. *Id.* Under the preponderance of the evidence standard, we consider not only the quantity, but also the quality (including relevance and probative value) of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

Although the Petitioner's proposed endeavor as described has merit, the evidence does not demonstrate that it would have significant potential to employ U.S. workers, have substantial positive economic impact in this country, broadly impact the industry on national or global level beyond his prospective employer and its future clients, or otherwise have broader economic or societal implications rising to the level of national importance. *Dhanasar*, 26 I&N Dec. at 889-890.

In reasserting that his proposed endeavor has national importance, the Petitioner relies on his academic credentials and work experience in the procurement field, as indicated in his resume, support letters, and the voluminous industry articles generally noting the industry's significance. He reiterates that his expertise highly qualifies him as a procurement coordinator or consultant (or a similar position), which he claims is an inherently critical role in virtually all businesses; and given the industry's demand for individuals like him, his proposed endeavor will have substantial positive economic and

[2] The Director did not reach *Dhanasar*'s second and third prongs, as any one of its three prongs is dispositive.
[3] In his updated statement, he added two other similar positions: procurement manager and purchasing coordinator.

societal impact. However, the above evidence and assertions focus on his experience, skills, and the importance of his profession, and relates to *Dhanasar*'s second prong, which, contrary to his appeal assertions, "shifts the focus from the proposed endeavor to the foreign national" and whether they are "well positioned" to advance their endeavor. *Dhanasar*, 26 I&N Dec. at 890.

For assessing the national importance of a proposed endeavor under *Dhanasar*'s first prong, we look to its "potential prospective impact" and evaluate whether the specific endeavor the Petitioner proposes to undertake has broader national significance, as required, rather than the importance of his profession or industry in which he proposes to engage. *Id.* at 889. Here, he proposes to work as a procurement coordinator for unspecified U.S. companies, regardless of their respective industries, by helping them strategically navigate complex supply chains in an environmentally sustainable manner and preparing them for better product sourcing, database building, effective data usage, process optimization, and risk management. He further asserts that his endeavor will help U.S. companies acquire needed goods and services (including energy and other resources) in a timely and modernized manner, increase their purchasing power, safeguard their assets, and ensure procurement efficiency, which in turn will ultimately promote reliability of the supply chains across the United States. However, the Petitioner does not specifically claim, and the record does not contain any evidence, that he himself has developed innovative procurement strategies or novel methodologies, or that his related skills acquired in Brazil were or would be recognized or adopted by the procurement industry in this country or otherwise have broad implications. Although we acknowledge that the proposed endeavor could have a positive impact on his career, his future employer, and its clients, he has not persuasively explained, and the record (primarily including his statements, an expert letter generally opining about the claimed importance of the endeavor, other support letters, and the general industry reports) does not show how his proposed work as a company procurement coordinator would have the national or global implications for the U.S. industry as he claims, beyond his future employer and its clientele.

The Petitioner, for instance, does not claim that as a procurement coordinator or consultant, he himself will employee U.S. workers or that his position with his potential employer will directly result in their hiring of U.S. workers. He also does not specify, and the record lacks specific evidence as to, how or to what extent his proposed work with U.S. companies otherwise stands to impact U.S. economy or benefit economically depressed areas. *Dhanasar*, 26 I&N Dec. at 890 (holding that proposed endeavors that have "significant potential to employ U.S. workers" or "substantial positive economic effects, particularly in an economically depressed area" may indicate national importance). He does not claim, and the record contains no evidence, that his work as a procurement coordinator will directly and specifically benefit any economically depressed area. Other than the general assertion that good procurement work is inherently critical to U.S. companies and reiterating his background, the record also lacks evidence as to how he will obtain a company position (either as a contractor or employee) and perform related duties he claims will facilitate and elevate the importance of his work to a national level. Further, he does not claim that he would be able to advance his endeavor independently on his own, and the record lacks evidence of any interest in him from any U.S. entity that may otherwise indicate industry-wide significance of his proposed endeavor in a nationally distinguishable manner. Even if he were hired, the Petitioner's aspirational assertions, support letters praising his skills and past achievements, and the general industry reports contained in the record do not demonstrate that the proposed procurement work would have "significant potential to employ U.S. workers" or "substantial positive economic effects, particularly in an economically depressed area." *Id.*

He nonetheless continues to highlight, and we acknowledge, his expertise, past accomplishments, and the potential significance of the procurement industry. But as explained, the referenced assertions and related documents primarily relate to whether he is well positioned to advance his endeavor under *Dhanasar*'s second prong, rather than its first prong, and thus do not show that his proposed endeavor would have substantial positive economic or societal effects rising to the level of national importance.

The importance of the proposed endeavor, as noted, is evaluated by its specific potential prospective impact, rather than by the importance of the profession in which he proposes to engage based on his qualifications he believes position him well for future success (or by the importance of other industries that may rely on supply logistics and procurement services). *Dhanasar*, 26 I&N Dec. at. at 889-890. The purpose of the national interest waiver thus is not to facilitate U.S. job search where there may be job opportunities in the field that may also have national significance. Anyone seeking such a waiver must demonstrate that the *specific* endeavor they propose to undertake has national importance. *Id.*

While we acknowledge his desire to contribute to the U.S. procurement industry, the Petitioner has not established with probative evidence that his proposed endeavor as a procurement coordinator or consultant will specifically further its objectives in a nationally significant manner, have broader implications in his field, have significant potential to employ U.S. workers, or have substantial positive economic or societal effects. The Petitioner has not met *Dhanasar*'s national importance prong and therefore has not established his eligibility for a discretionary national interest waiver.

As the identified ground for denial, the Petitioner's inability to satisfy *Dhanasar*'s first prong is dispositive of this appeal, we do not address here the second and third *Dhanasar* prongs for a national interest waiver. *See, e.g., INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to reach issues that are unnecessary to the ultimate decision).[4]

ORDER: The appeal is dismissed.

[4] Given that *Dhanasar*'s first prong is dispositive of this matter, the Director also did not (and was not required to) go further below, and we thus disagree with the Petitioner that the Director erred in not reaching the second and third prongs.