U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34867926

Date: NOV. 8, 2024

Appeal of Texas Service Center Decision

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

The Petitioner lists his occupation as "computer and information system" and states that he plans to make a "significant contribution to the national interest of the United States in the fields of technology, information systems with an emphasis on information science computing and IT project management." He 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 determined that although the Petitioner established that he qualifies for the underlying EB-2 visa classification as an advanced degree professional, he 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 substantial merit and national importance, (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 he will pursue an endeavor that has substantial merit and national importance and thus, he did not satisfy the two elements comprising 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 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).

In denying the petition, the Director stated that the Petitioner must do more that discuss his occupation; the Director stated that the Petitioner must specifically identify his proposed endeavor and offer details about the type of work he plans to undertake within his identified occupation. The Director determined, however, that the Petitioner discussed his past work in the field of engineering and did not identify a specific proposed endeavor. As such, the Director concluded that the Petitioner did not satisfy the substantial merit element of the first prong.

Likewise, the Director determined that the Petitioner also did not satisfy the national importance element of the first prong. Aside from failing to identify a proposed endeavor, the Director determined that the Petitioner also did not demonstrate how his proposed endeavor would broadly impact engineering, the field in which the Petitioner has worked. Further, the Director determined that the record does not show the proposed endeavor's significant potential to employ U.S. workers or its potential to provide substantial economic benefits to the region where the endeavor would operate or to the country as whole.

Based on the evidentiary deficiencies discussed above, the Director concluded that the Petitioner did not satisfy the substantial merit or the national importance elements of the first prong of the *Dhanasar* framework.

On appeal, the Petitioner highlights his research and educational credentials as well as his "leadership and expertise in managing IT project management" during his 15-year career, noting that he has received "various awards" in recognition of his work. The Petitioner also points to his work's impact on a prior employer's operational costs and improved system reliability and claims that his "continued work in the United States would further enhance national interests by fostering innovation, supporting economic growth, and strengthening national security through technological advancements." However, the Petitioner does not specifically identify a proposed endeavor, thus neglecting to clarify precisely how he would achieve these stated goals.

Importantly, the Petitioner states that he intends to "pursue advanced studies at the [redacted] thereby indicating that his immediate focus is on educational pursuits and not a specific endeavor that will have "national or even global implications" within the Petitioner's field of engineering, or that will broadly impact the United States through, for example, "substantial positive economic effects" as contemplated in *Matter of Dhanasar*, 26 I&N Dec. at 889-890. And although the Petitioner states that his education at [redacted] will enable him to "make substantive contributions to the advancement of technology and national interests," he does not describe specific contributions or advancements he intends to make through his endeavor, nor does he specify a proposed endeavor – aside from education – to explain how his activities will result in broad implications for the nation or for the engineering field.

In sum, the Petitioner does not adequately address the factors raised in the denial and makes no compelling arguments explaining that he would pursue a specific endeavor that meets the substantial merit and national importance elements of the first prong of the analytical framework in *Matter of Dhanasar*. As such, the Petitioner has not overcome the Director's conclusion regarding these issues.

As noted earlier, the identified basis for denial is dispositive of the Petitioner's appeal, and we therefore reserve any discussion of the remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. at 25 ("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. at 526 n.7 (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.