U.S. Citizenship and Immigration Services

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

In Re: 34771416

Date: NOV. 20, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner 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 EB-2 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 Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed the Petitioner's appeal. The matter is now before us on motion to reconsider.

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). Upon review, we will dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested benefit. Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii).

In our decision dismissing the appeal, we agreed with the Director that the Petitioner did not meet the first prong of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). We explained that the Petitioner had not demonstrated the national importance of his proposed endeavor. Specifically, we stated that he did not establish his proposed endeavor has significant potential to employ U.S. workers, has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance.

On motion, the Petitioner asserts that "some crucial elements of my case have not been fully considered." He points to his education, professional background, and expertise in marketing and

business management. The Petitioner's education, skills, knowledge, and prior work in his field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong.

In addition, the Petitioner repeats previous claims relating to his business plan, recommendation letters from [redacted] expert opinion letter from Professor [redacted] and the Florida certification of his LLC, but he does not explain how our analysis of this documentation was in error. For example, the Petitioner points to information about his proposed endeavor as discussed in his business plan. Our appellate decision, however, specifically considered the Petitioner's economic impact claims as outlined in his business plan. We determined the Petitioner had not shown that his proposed endeavor stands to "employ a substantial number of U.S. workers or otherwise have significant economic impact as contemplated in *Dhanasar*." The Petitioner does not articulate how our determination is based on an incorrect application of law or USCIS policy.

The Petitioner resubmits articles on the importance of digital platforms in transnational supply chain management, geopolitics and the geometry of global trade, how to build an international marketing strategy, the United States in the World Economy, and the top three global marketing trends of 2022, which he claims support the national importance of his proposed endeavor. As we indicated in our appellate decision, the determination of national importance does not focus on the importance of the field in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. We noted that none of the articles mention the Petitioner or his company, or otherwise speak to the potential prospective impact of his proposed endeavor. The Petitioner's motion does not explain how our discussion of this evidence was erroneous.

The Petitioner's motion also includes information from the Federal Reserve Bank of St. Louis about employment growth in the U.S. management, scientific, and technical consulting services sector.[1] He contends that "it is reasonable to project" that his company, [redacted] will contribute "to this upward employment trend," but he does not elaborate on his firm's staffing projections or provide evidence supporting the need for additional employees. He further argues that his "company's growth potential and expertise in marketing and business management consulting could lead to a substantial economic impact." The Petitioner, however, has not provided evidence demonstrating that his company's proposed consulting services would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the potential prospective impact of his proposed endeavor stands to offer broader implications in his field or to generate substantial positive economic effects in the region where his company will operate or in other parts of the United States.

[1] In determining national importance, the relevant question is not the overall importance of the industry in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. The Petitioner must still demonstrate the potential prospective impact of his specific proposed endeavor.

Because the Petitioner has not established the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, he has not demonstrated eligibility for a national interest waiver.[2] The Petitioner has not shown that our appellate decision was based on an incorrect application of law or USCIS policy and that our decision was incorrect based on the evidence in the record at the time of the decision. Consequently, we have no basis for reconsideration of our decision. Accordingly, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4). The Petitioner's appeal therefore remains dismissed, and his underlying petition remains denied.

**ORDER:** The motion to reconsider is dismissed.

[2] Since this issue was dispositive of the Petitioner's appeal, our appellate decision reserved determination of his eligibility under the second and third prongs of the *Dhanasar* framework. *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); *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 the applicant did not otherwise meet their burden of proof).