U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34286907

Date: OCT. 03, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, an aircraft maintenance consultant, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability, 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 Nebraska Service Center denied the petition, concluding that the record did not establish the Petitioner's eligibility for the requested national interest waiver. The matter is now before us on appeal. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. 8 C.F.R. § 204.5(k)(2).

Once a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *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 a 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
- On balance, waiving the job offer requirement would benefit the United States.

II. ANALYSIS

The Director determined that the Petitioner qualified for the underlying EB-2 classification as an individual of exceptional ability. Therefore, the remaining issue is whether the Petitioner established eligibility for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with the Director's conclusion that the proposed endeavor has substantial merit as it falls within the range of areas of substantial merit, namely business. *Id.* However, while the Petitioner has established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner stated that his proposed endeavor in the United States was to work as an aircraft maintenance consultant, providing services including aircraft maintenance management and monitoring, aircraft pre-purchase monitoring and management, aircraft export and import services, and technical maintenance control. The Petitioner explained the asserted national importance of his proposed endeavor as follows:

> The establishment of [the Petitioner's consulting company] goes beyond just a local business venture; it has national and global ramifications. As discussed earlier, the aviation industry, with its extensive reach and influence, is a vital component of the U.S. economy. My services will address critical aspects of this industry, such as safety, maintenance efficiency, and operational continuity. By ensuring that aircraft are well-maintained, compliant with safety standards, and operate reliably, the proposal contributes to safer and more efficient air travel not only within the United States but also for global flights that transit through U.S. airspace. Furthermore, the U.S. is a significant player in the international aviation market, and the success of a U.S.-based aviation consulting company can set a high standard for global aviation services, influencing best practices and safety measures worldwide.

The Petitioner further indicated that his proposed endeavor had significant potential to employ U.S. workers, stating there was a demand in the United States for skilled professionals in aircraft

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

maintenance, technical inspections, logistics, and support services and that he would "directly employ a considerable number of U.S. workers, both in highly specialized roles and support functions." In addition, the Petitioner asserted that his proposed services would broadly enhance societal welfare due to his focus on safety, maintenance quality, and operational efficiency which would safeguard aircraft from accidents, reduce aircraft downtimes, and optimize maintenance processes, benefiting "various sectors of society, including logistics, tourism, and trade." The Petitioner also emphasized that his proposed endeavor would impact U.S. government initiatives identified as having national importance, namely the Federal Aviation Administration (FAA) and other government entities that "have a strong vested interest in ensuring the highest standards of aviation safety and reliability."

In response to the Director's request for evidence (RFE) asking for more clarification on the substantive nature of the Petitioner's proposed endeavor, the Petitioner emphasized the crucial role that air transport industry plays in economic development and creating direct and indirect jobs, such as in tourism and local business. The Petitioner stated that the Beneficiary's proposed services are aligned with the anticipated growth of the air transport industry "positioning his consultancy to play a pivotal role in addressing some of the critical challenges facing the sector." The Petitioner further asserted that his services would streamline complex processes involving the international trade of aircraft, allowing aviation fleets to expand their fleets and enter new markets more efficiently. He also pointed to a submitted reference letter provided by a regional sales director from a company based in Florida providing services related to the import and export of aircraft. In this letter, the Petitioner's colleague attested to the Petitioner's "invaluable knowledge and experience in the global aviation market, particularly in maintaining and operating executive aircraft and navigating complex processes involved in their export and import."

Furthermore, the Petitioner again contended that his proposed endeavor would broadly enhance societal welfare, highlighting its contribution to sustainable development through a reduction in air travel's environmental footprint and consumer welfare by promoting more air efficient air travel, and in turn, an increase in travel and tourism activities. The Petitioner also indicated that his proposed endeavor would impact national government initiatives including the objectives of the National Center for the Advancement of Aviation Act of 2021, stating that his consulting business would "aid the professional development of educators and enhance the quality of education in aviation and aerospace" benefiting from "the real-world applications and innovations stemming from [the Petitioner's] work."

The Director concluded that the record did not demonstrate the national importance of the Petitioner's proposed endeavor reasoning that the importance of the aviation field alone did not demonstrate the national importance of his proposed endeavor. On appeal, the Petitioner reiterates the assertions submitted in response to the RFE and contends that the Director erred in determining that his proposed endeavor would not have national importance.

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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.

First, on appeal, the Petitioner points to reference letter provided from the regional sales director at an aircraft import and export company and asserts this reflects his "invaluable knowledge and experience in the global aviation market" and the "crucial role" he played in the exportation of aircraft to the United States. While it is true that a petitioner's expertise and record of success in previous positions are considerations under *Dhanasar*'s second prong, the second prong does not evaluate the prospective impact of an endeavor, but instead "shifts the focus from the proposed endeavor to the foreign national." *Id.* As such, while a Petitioner's background may be helpful in describing the nature of their field and prior work, it is not sufficient to establish the national importance of their proposed endeavor. Likewise, the Petitioner's reliance on his prior projects does not establish the broader implications of his proposed endeavor as he has not shown how these projects resulted (or could result) in broader implications to the field beyond the benefits realized by his former employers and customers. Regardless, even when considered, the reference letter stressed by the Petitioner discusses the Petitioner's assistance the refurbishment and import of one aircraft, leaving question as to its probative value in demonstrating his asserted national impact on the large U.S. aviation industry.

The Petitioner also provided several generic and unsupported statements specific to the asserted prospective national impact of his proposed endeavor. For instance, the Petitioner claimed that his consulting business would have a national impact on aviation safety and compliance, lead to "positive and transformative changes," enhance operational safety standards "globally," and "revolutionize maintenance strategies." Likewise, he stated that his consulting services in the aviation industry would reduce aircraft downtimes, allow aviation companies to expand their fleets and enter new markets more efficiently, among other several broad assertions. However, the Petitioner provides little detail as to how his consulting services would impact the U.S. aviation industry on a national level, including the safety and compliance procedures he would change, the "transformative changes" that he would effectuate, the ways in which he would enhance operational safety standards "globally," or how he would "revolutionize maintenance strategies" in the aviation industry. Similarly, the Petitioner does not sufficiently explain or document how his services would have a prospective national impact on the downtime of aircraft or allow aircraft companies expand their fleets on a national level in what is undoubtedly a massive industry. In fact, as discussed, the Petitioner has only provided evidence suggesting his work in maintaining and importing one aircraft to the United States. The Petitioner does not sufficiently detail and document how his work in aircraft maintenance and safety would be materially different from any other similar experienced employee working this field, leaving doubt as to likelihood of its prospective national impact.

Moreover, while the Petitioner's intent to implement best practices and innovative solutions in aircraft maintenance appear to generally align with FAA safety initiatives and those of National Center for the Advancement of Aviation, it does not establish that his work would rise to the level of national importance contemplated in *Dhanasar*. The Petitioner did not show how his proposed services will impact the industry beyond the operations of his immediate customers. For example, the Petitioner states that his services would "aid the professional development of educators and enhance the quality of education in aviation and aerospace" benefiting from "the real-world applications and innovations stemming from [the Petitioner's] work." However, the Petitioner provides little indication as to how his consulting services would impact aviation education at a national level or what applications or

innovations would result from his work. In addition, the Petitioner states that his services would have a societal impact by reducing the environmental impact of air travel, again a bold, unsupported claim in such a large industry. Generalized conclusory statements that do not identify a specific impact to the field have little probative value. *See e.g., 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). In *Dhanasar,* we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Dhanasar* at 893. Here too, the record does not demonstrate that the Petitioner's proposed endeavor stands to sufficiently impact the aviation field more broadly at a level commensurate with national importance.

The record also does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 890. Although the Petitioner submitted vague and non-specific business plans asserting the business would hire nine employees after the first five years of operation, it did not properly substantiate how this would have a national level impact on an industry he states accounts for 5% of the U.S. gross domestic product while employing over 10 million American workers. The Petitioner has not submitted specific and targeted business plans, but provides generic assertions about impacting commercial airlines, logistics, cargo transport, trade, tourism, among other sectors impacting by the greater aviation industry, each which could be reasonably deemed separate, and large, industries. In addition, the Petitioner provided only two letters from potential clients in Florida that do not properly reflect their potential financial impact.

Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, he has not provided sufficient explanation of the prospective impact directly attributable to his proposed work, or established how his endeavor would impact an economically depressed area. We acknowledge that the Petitioner contends that there is a shortage of qualified aviation maintenance workers similar to him in the aviation industry; however, a shortage of workers alone does not establish that a proposed endeavor would likely have a prospective national impact. Again, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third prongs. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they

reached"); *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).

ORDER: The appeal is dismissed.