U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33398364

Date: SEP. 19, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, as well as a national interest waiver of the job offer requirement attached to this classification. 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 the Petitioner did not establish eligibility for a national interest. 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 qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate 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 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

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v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- On balance, waiving the job offer requirement would benefit the United States.

Id. at 889.

II. ANALYSIS

A. Substantial Merit and National Importance

The first 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Id. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer. See generally 6 USCIS Policy Manual F.5(D)(1), https://www.uscis.gov/policy-manual.

The Director determined that while the Petitioner established that the proposed endeavor has substantial merit, he did not establish that the proposed endeavor is of national importance as set forth under the first prong of the Dhanasar analytical framework. We agree, for the reasons explained below.

The Petitioner asserts that his proposed endeavor is to establish a "Management Consulting, Advisory, and Training Office, focusing on law firms and business consulting companies." Noting the importance of the role that small businesses play in the U.S. economy, the Petitioner further asserts that his "venture's focus on providing training and guidance to businesses and professionals aligns with the national interest in workforce development" and "[b]y offering courses and expertise in areas such as Organizational Design, Process and Operations Management, and Administrative Business Management Solutions, I am contributing to the development of a skilled and competitive workforce." He maintains that his endeavor will "actively engag[e] with professionals from various backgrounds, including recent graduates, mid-career professionals, and seasoned experts," and extend "to collaborations with academic institutions, research centers, and industry associations" which will "serve as conduits for the exchange of cutting-edge research, best practices, and emerging trends, ensuring that the programs offered by my venture remain at the forefront of industry developments." The Petitioner's business plan indicates that within five years his endeavor will have a projected revenue of approximately $2.7 million; employ eight employees and pay $1,412,800 in wages; and "contribute to creating/maintaining 62.46 indirect jobs." The Petitioner contends that his endeavor will generate significant social impacts in the supply chain, "not only from the generation of jobs and income itself but also from the generation of alternatives for various economic areas, such as the manufacturing industry, imports, exports, transportation, trade, and services, including suppliers, employees, and consumers." In addition, he maintains that he plans to "use 5% of the budget to carry out cultural, artistic, and social activities in the local community where the future company will be," including "in areas of economic depression."

On appeal, the Petitioner asserts that he has submitted sufficient evidence of the national importance of his proposed endeavor, including a comprehensive business plan and documentation demonstrating his record of exceptional achievements, recognition in his field, and contributions of major significance in his area of expertise.

In the present case, the Petitioner relies primarily on the importance of small businesses to the U.S. economy as well as the growing need for consulting services. We first note here that the Petitioner's experience and abilities in his field relate to the second prong of the Dhanasar framework, which "shifts the focus from the proposed endeavor to the foreign national." Dhanasar at 890. In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." Id. at 889. In Dhanasar, 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. A local physical therapy business and a shortage of physical therapists in the United States does not render the proposed endeavor nationally important under the Dhanasar framework.

Although the Petitioner contends that his consulting firm, which will be based in the [redacted] region of Florida will have sales proceeds of $2.7 million by the fifth year and has the potential to "generate a substantial number of jobs contributing directly to the reduction of unemployment and revitalizing the labor market," resulting in a "positive ripple effect [that] will extend to supporting industries, suppliers, and service providers, fostering economic growth and stability," these projections are not supported by relevant or probative evidence. Further, his endeavor does not include any specific plans or demonstrate that the benefits to the regional or national economy resulting from his endeavor would reach the level of "substantial positive economic effects" contemplated by Dhanasar. Id. at 890. Instead, the Petitioner supports his claims with references to third party documentation relating to the management consulting market, the general operations managers market, and supply chain and enterprise potential. However, generalized conclusory statements that do not identify a specific impact to the field have little probative value.[2]

The Petitioner has not provided corroborating evidence, aside from claims in his statements and his business plan, that his endeavor's activities stand to provide substantial economic benefits to the [redacted] region of Florida or the United States or benefit an economically depressed area, and his statements are not sufficient to demonstrate his endeavor has the potential to provide economic, societal, and security benefits to the United States. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation directly attributable to his future work, the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner's proposed endeavor would reach the level of "substantial positive economic effects." In the end, the economic benefits that the Petitioner claims will result from his endeavor depend on numerous factors and the Petitioner does not offer a sufficiently direct evidentiary tie between his proposed endeavor and the claimed economic results.

[2] *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).

We recognize the importance of the financial services industry and of small businesses to the U.S. economy, and while the Petitioner's management consulting services may "contribute" to economic growth, he has not demonstrated that his specific business – alone – would have national implications for the U.S. economy, the Florida region, or the management consulting field. 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.