U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33949062

Date: SEPT. 23, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a cybersecurity engineer, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or 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 Texas Service Center denied the petition, concluding the record did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. 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.

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. Our precedent decision in *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 Third, Ninth, Eleventh, and D.C. Circuit Courts 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.

II. ANALYSIS

The Director determined that the Petitioner qualified for the underlying EB-2 classification as an advanced degree professional. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

With respect to his proposed endeavor, the Petitioner indicated that he intends to continue working as a cybersecurity engineer, with a focus on business cybersecurity and national security.[2] His long-term goal is to eventually establish his own cybersecurity consulting firm. In his initial filing, the Petitioner stated:

> My proposed endeavor revolves around the protection of public and private infrastructure against cyberattacks. Specifically, my proposed endeavor [is] to "effectively combine my expert-level understanding of programming, network security, and data management with the ever-evolving threat landscape with key cybersecurity methods/tools like cyber risk profiling, threat hunting, vulnerability remediation, vulnerability mitigation, and attack prediction, to alleviate complex cyber-attacks on cyberinfrastructure, that tend to threaten citizens' and governmental data, personal credibility, business credibility, economic stability, security of nations, and intellectual properties" . . . .

The Director concluded that the Petitioner's endeavor has substantial merit but not national importance under *Dhanasar's* first prong. On appeal, the Petitioner alleges that the Director's decision was "arbitrary and capricious" and that it was based on "erroneous assertions and mischaracterizations, which were at variance with the records, case law, and USCIS' policy." In particular, he argues that the Director ignored or failed to consider all the evidence in evaluating his claim. He also contends, among other things, that the Director created a new standard for analyzing *Dhanasar's* first prong and did not provide an analysis explaining why his proposed endeavor does not have national importance.[3]

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[2] We acknowledge the Petitioner's assertion that the request for evidence incorrectly referenced the "industrial architectural engineer field." However, this error was, at most, harmless and the Director's decision properly cited to and analyzed the Petitioner's actual proposed endeavor in the cybersecurity field. *See generally Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing cases regarding harmless scrivener's errors).

[3] The Petitioner also argues that the Director erred in failing to provide "an analysis on the supporting documents not supporting the Petitioner's proposed endeavor." We disagree. The record reflects the Director's consideration of all the evidence in the totality in making their determination. When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the Petitioner presents. *See Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *see also Kazemzadeh v. U.S. Att'y. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993).

Upon de novo review, we agree with the Director's conclusion that the Petitioner has not demonstrated his proposed endeavor's national importance and, thus, has not shown that he satisfies *Dhanasar's* first prong. While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and 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.

Here, the Petitioner has not offered sufficient evidence to demonstrate that his proposed endeavor's prospective impact rises to the level of national importance. The Petitioner places considerable emphasis on the importance of the cybersecurity field and stresses the role that cybersecurity professionals play in "protect[ing] the digital systems that power the entire U.S. economy and public infrastructure." However, 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 specific endeavor that the foreign national proposes to undertake." *Id.* at 889.

The Petitioner submitted various articles and reports, including documents generally discussing the cybersecurity field, the impact of cyber incidents on financial systems and critical infrastructure, and various government initiatives to strengthen cybersecurity resilience. He also highlights that data privacy, data security, and cybersecurity technologies are included in the U.S. National Science and Technology Council's updated list of critical and emerging technologies. While the Petitioner contends that the articles demonstrate the national importance of his proposed endeavor and that, in particular, the "government-sourced" materials "speak directly to his proposed endeavor," the documents provide only general background information on these subjects and the wider importance of the cybersecurity field. None of the articles or reports specifically mention the Petitioner, his work, or any government interest in the Petitioner's *specific* proposed endeavor.

The Petitioner also points to the importance of cybersecurity engineers in driving innovation, ensuring national security, boosting economic growth, and enhancing business competitiveness. In doing so, he reiterates the role his proposed endeavor as a cybersecurity engineer would generally play in "securing the digital infrastructure that underpins all major sectors of the United States' economy and national life." As such, he contends that his proposed endeavor cannot be characterized as impacting only his clients because digital systems are "integrally tied to broader economic performance, infrastructure resilience, and national security."

We recognize the overall importance of cybersecurity professionals in general but, again, simply working in an important industry is insufficient to establish the proposed endeavor's national importance. In this case, the Petitioner neglects to focus on the prospective impact of his specific endeavor and how it, in particular, as opposed to cybersecurity professionals generally, would achieve

these goals and impact the field, region, or nation more broadly. For instance, he does not explain how the cybersecurity services *his* endeavor would provide are distinguishable from those of other cybersecurity professionals, or how his work as an individual cybersecurity engineer for a single company would impact the fields of cybersecurity and information technology more broadly beyond simply benefiting his employer and its clients. Additionally, while the Petitioner claims he will use his expertise in networking, software development, cloud data engineering, and information systems management to support businesses and U.S. governmental agencies protect their data and privacy, these objectives simply describe the typical duties of a cybersecurity engineer and are insufficient in themselves to show that the Petitioner's specific proposed endeavor rises to the level of national importance.

The Petitioner also provided recommendation letters from former work colleagues expressing their opinions that the Petitioner's endeavor would be nationally important. However, the letters lack sufficient explanation as to what specific impact the endeavor would have and why it would be nationally important. For example, while several letters generally claim the Petitioner will design "programs" and "tools" to shield the economy and national security from cyberattacks, they do not elaborate on what these programs or tools are, what specifically they would do to shield systems from cybersecurity attacks, or how they would impact the economy or national security more broadly.

The record also does not support the Petitioner's claim that his future work has a significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. While the Petitioner generally asserts that the adoption of cloud-based technologies has led to the growth of new industries and businesses, which has generated job opportunities and driven economic growth, he has not adequately demonstrated through the record evidence that the specific endeavor *he* proposes to undertake would produce such benefits. Without evidence showing any projected U.S. economic impact or job creation directly attributable to his future work, the Petitioner has not shown 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.

Finally, the Petitioner has not sufficiently shown that any threat intelligence research or educational programs he may perform as part of the long-term goals of his endeavor would offer original ideas or innovations that contribute to advancements in the cybersecurity field, or otherwise have broader implications for the industry. In the same way that *Dhanasar* finds that a classroom teacher's proposed endeavor is not nationally important because it will not impact the field more broadly, we also conclude that the Petitioner has not shown how any future educational activities would sufficiently extend beyond the clients and individuals he teaches to affect the region, nation, or field more broadly at level commensurate with national importance.

Because the record does not establish the national importance of his proposed endeavor as required by *Dhanasar's* first prong, the Petitioner has not demonstrated eligibility for a national interest waiver. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining issues and arguments concerning whether he has established eligibility under the remaining two *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule 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 D-L-S-*, 28 I&N Dec. 568, 577 n.10 (BIA 2022) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We, therefore, conclude that the Petitioner has not established that he is eligible for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.