U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29357319

Date: JAN. 12, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an aircraft mechanic in the aviation industry, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 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 that the Petitioner established he was an advanced degree professional, but had not demonstrated 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. 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.

The Petitioner intends to operate a business that will provide both corrective and preventive aircraft maintenance services, and ancillary services such as consulting and training. The Petitioner also stated that he will alleviate the tremendous aviation industry shortage of aviation mechanics by offering his training expertise to the U.S. aviation market to include, among others, airlines, companies, training centers, and flight schools. The Director summarized the evidence and analyzed why it did not establish the Petitioner's eligibility for a national interest waiver. On appeal, the Petitioner submits a brief which generally reiterates the benefits of his profession, his qualifications, and the claimed economic impacts of his proposed business and contends that he has established the national importance of his proposed endeavor but does not provide any new evidence or arguments which overcome the Director's determination.

We adopt and affirm the Director's decision. *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 this issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight U.S. Court of

Appeals in holding the appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). The Director thoroughly reviewed, discussed, and analyzed the Petitioner's national importance claims under the first prong of *Dhanasar*, including his submission of industry reports and articles relating to the importance of entrepreneurism in the United States and the growth of the aviation industry, his job experience and skills, and the economic impact of his ownership of a company.

As it relates to the Petitioner's experience and ability claims, those relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. Moreover, the Petitioner must establish the national importance of his business rather than the importance of aircraft mechanics, small businesses, entrepreneurism, and immigration.[1] 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. Further, "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.* Also, "[a]n endeavor that has particularly 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.

On appeal, the Petitioner states the Director applied a stricter standard of proof and did not sufficiently review all evidence. Specifically, he asserts the Director did not sufficiently consider his business plan, recommendation letters, industry reports and articles, and résumé. However, in the decision, the Director discussed the Petitioner's qualifications and experience, as well as specifically referenced and analyzed the business plan, the recommendation letter, and industry reports and articles. Although the Petitioner states the Director did not consider the Petitioner's vast contributions in the field, he does not identify what these contributions are or how they affected the field. The Petitioner does not explain what specific content the Director failed to consider or how the record contains evidence that overcomes the Director's analysis and findings. Therefore, we do not find support for the Petitioner's assertion that the Director applied a stricter standard of proof and did not properly review all evidence.

Upon review of the record, we agree with the Director that the Petitioner has not established that his proposed endeavor, including operating his own business, sufficiently extends beyond his company and its clientele to impact the industry or the field more broadly, at a level commensurate with national importance. 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. *Id.* at 893. Here, the Petitioner suggested that by filling an aircraft mechanic position, he will directly benefit the aviation industry and the general public by ensuring secure and reliable air transportation. He further claimed his endeavor would enhance and improve the aviation industry in the United States that would result in ripple effects on trade, tourism, and the U.S. economy, and would address the nationwide shortage of aviation mechanics. However, the Director determined, and we agree, that he has not substantiated how one mechanic will alleviate a national labor shortage, trigger substantial positive economic benefits, or otherwise have potential prospective impacts at a level commensurate with national importance. The record does not show through supporting documentation how his business

[1] The Petitioner's contentions and submissions of industry articles and reports relates to the substantial merit of the proposed endeavor rather than the national importance.

stands to sufficiently extend beyond his prospective clients to impact the industry or the U.S. economy more broadly at a level commensurate with national importance. Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. *Id*. at 890. The petition will remain denied.

Because the Petitioner did not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver, as a matter of discretion.[2] Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.[3]

ORDER: The appeal is dismissed.

[2] *See Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

[3] *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 alternate issues on appeal where an applicant is otherwise ineligible).