U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31655823

Date: JUL. 15, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a legal and business advisor, 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 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. 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. 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:

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- 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.

Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

In his initial personal statement, the Petitioner indicated that his proposed endeavor will "assist natural disaster-affected community [sic] through the provision of technical and mechanical support to first responders and local businesses, thus contributing to post-hurricane reconstruction efforts while promoting social resilience and economic progress." The business plan, submitted in response to the Director's request for evidence (RFE), clarified that the proposed endeavor was "an industrial hydraulic hose and fitting manufacturer that will offer associated products and maintenance and installation services."

The Director concluded that, although the Petitioner had established the substantial merit of his proposed endeavor, he had not demonstrated its national importance, that he is well-positioned to advance the proposed endeavor, and that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of the labor certification.

On appeal, the Petitioner asserts the Director abused their discretion in failing to address all evidence, citing *Buletini v. INS*, 850 F. Supp. 1222 (E.D. Mich. 1994) in support. However, the court in *Buletini* did not suggest that USCIS abuses its discretion if it does not provide individualized analysis for each piece of evidence. 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 Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009) (citing *Tan v. U.S. Atty. Gen.* 446 F.3d 1369, 1374 (11th Cir. 2006)); *see also Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993). We conclude the record reflects the Director's consideration of all evidence in the totality even though the Director's decision did not address each piece of evidence individually.

The Petitioner further contends on appeal that, but for this abuse of discretion, the record establishes, by a preponderance of the evidence, the national importance of his proposed endeavor. Upon de novo review, we cannot conclude that it does so. We note that, while we do not discuss all of the evidence in the record individually, we have reviewed and considered the record in its entirety.

The first prong of *Dhanasar*, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Dhanasar*, 26 I&N Dec. at 889. 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. *Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further 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.* at 889. We determined in *Dhanasar* 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. 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.

On appeal, the Petitioner contends that the Director did not sufficiently consider industry and Federal reports in determining that the proposed endeavor was of national importance. The industry reports discuss the projected demand for services to be provided by the proposed endeavor, and the importance of the industry generally. The U.S. government reports, such as one published by the White House entitled "Building a Better America: A Guidebook to the Bipartisan Infrastructure Law for State, Local, Tribal, and Territorial Governments, and Other Partners," and one produced by the Federal Emergency Management Agency, generally discuss the importance of infrastructure maintenance in the United States and provide guidance on funding opportunities. However, when determining whether a proposed endeavor would have substantial merit or national importance, the relevant question is not the importance of the industry or profession where the Petitioner will work, but the specific impact of that proposed endeavor. *Id.* at 889-890. The Petitioner does not offer evidence to demonstrate that the U.S. government has offered the proposed endeavor funding or taken a direct interest in it in a manner that may reflect its national importance.

In addition, the Petitioner has not submitted evidence sufficient to "establish the national importance of the proposed endeavor from an economic … standpoint" as he asserts that he has done on appeal. In his amended personal statement, the Petitioner explained that the proposed endeavor "focuses on providing specialized hydraulic hose repair services to support critical industries in the city of [redacted] Florida." He stated that the proposed endeavor will promote jobs for "people living in the city of [redacted] The June 2023 business plan in the record below indicated that the Petitioner formed a limited liability corporation for this proposed endeavor in 2021, that the Petitioner had invested $600,000 into the endeavor, and that it was operating with three full time positions.[2] The business plan anticipated that the proposed endeavor would increase staffing to four in 2023, ten in 2024, 11 in 2025, and 12 in 2026; it also anticipated that the proposed endeavor would generate revenues totaling $756,984 in 2022, $1,948,440 in 2023, $2,631,980 in 2024, and $3,668,520 in 2025. Here the Petitioner has not offered evidence to demonstrate that his company's future staffing levels or revenues stand to provide substantial economic benefits in Florida. While the projected jobs and revenues forecast for the proposed endeavor indicate that the company has growth potential, it does not demonstrate that benefits to the regional or national economy resulting from the Petitioner's undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Dhanasar,* 26 I&N Dec. at 890.

[2] We note that the record lacks business formation documents for this proposed endeavor, documentation of employment, or evidence of this investment.

In his amended personal statement, the Petitioner also explained that "as a reliable hydraulic hose repair service provider [he] will contribute to maintaining and optimizing the national infrastructure in various industries," allowing his clientele to use their resources "in a more sustainable way, generating a positive economic impact at the national level." In this statement the Petitioner also noted that the proposed endeavor "directly supports the efficient operation of supply chains and promotes higher standards across the country." The Petitioner, however, has not provided evidence demonstrating that his proposed business activities 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 industry or to generate substantial positive economic effects in the United States as a whole.

Because the documentation in the record does 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. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning her eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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 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).

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. The appeal will be dismissed for the above stated reason.

ORDER: The appeal is dismissed.