U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25986093

Date: MAR. 21, 2023

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a general and operations manager, 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 the record did not establish the Petitioner's eligibility under the Dhanasar framework. 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.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 matter of discretion[1], grant a national interest waiver if the petitioner demonstrates that:

[1] See also 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).

- 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 the Petitioner qualifies for the EB-2 classification as an advanced degree professional. The remaining issue is whether the Petitioner has established eligibility under the Dhanasar framework. While we do not discuss each piece of evidence individually, we have reviewed and considered each one. The Petitioner proposes to continue working as a general and operations management professional, which involves "advis[ing] U.S. companies on how to properly plan, direct, and coordinate the operations of public or private sector organizations." He plans to work for any individual or company in need of his services.

On appeal, the Petitioner argues the Director did not properly consider the evidence and applied a heightened standard of proof in the adjudication of the petition. Specifically, the Petitioner states the Director did not give due consideration to his professional plan and statement; experience and professional qualifications; letters of recommendation; and industry reports and articles.[2]

The Petitioner's professional plan and statement lists how his endeavor will potentially impact the United States; however, the items listed appear to be proposed job duties as a general and operations manager, rather than an explanation of the proposed endeavor's broader implications. Regarding economic benefits, the Director noted that the Petitioner had not offered sufficient evidence to support his assertions. We agree. For instance, the record does not evidence a sufficiently direct connection between the proposed endeavor activities and either job creation, tax revenue, or increased household spending. While any basic economic activity has the potential to positively impact the economy, the Petitioner has not demonstrated how the economic activity his proposed endeavor generates would rise to the level of affecting the U.S. economy. The Petitioner does not offer an evidentiary basis to conclude that the "ripple effects" of his proposed endeavor will, for instance, affect the U.S. gross domestic product or tax revenues, nor does he offer an estimate of how many and which jobs he will create. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation 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" contemplated by Dhanasar. See id. at 890.

The Petitioner's recommendation letters do not support the Petitioner's eligibility under the first Dhanasar prong. The authors do not demonstrate knowledge of the proposed endeavor or explain how it has national importance. Although they discussed the results the Petitioner achieved for his employers and how the Petitioner performed well in various contract negotiations in the past, they did not sufficiently explain how the Petitioner's performance or the results he achieved extended beyond his employer and the specific parties involved to impact the field more broadly. For instance, some

[2] 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. 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. Atty. Gen., 577 F.3d 1341, 1351 (11th Cir. 2009); Casalena v. U.S. INS, 984 F.2d 105, 107 (4th Cir. 1993).

of the authors claim that the Petitioner negotiated an unprecedented discount for car rental companies and that this impacted the field and the Brazilian economy; however, the record does not contain sufficient details and objective evidence to corroborate such assertions. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. See 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). The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters so as to determine whether they support the petitioner's eligibility. Id. For these reasons, the letters are not probative of the Petitioner's eligibility under the first Dhanasar prong.[3]

The articles and reports address the industry as a whole, rather than the specific proposed endeavor. We agree that the operations management, business development, and automotive industries are important, as is addressing the shortage and demand of professionals in these fields. Nevertheless, this does not necessarily establish the national importance of the proposed endeavor. As the Director noted, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." See Dhanasar, 26 I&N Dec. at 889. As these materials do not analyze the Petitioner's specific proposed endeavor, it cannot be concluded that they support a finding that the endeavor has national importance.

The evidence does not establish the national importance of the proposed endeavor as required by the first prong of the Dhanasar precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of his eligibility under the second and third prongs outlined in Dhanasar would serve no meaningful purpose.

III. CONCLUSION

Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under 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).

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

ORDER: The appeal is dismissed.

[3] The authors' praise of the Petitioner's personal and professional qualifications and his experience is a more relevant consideration in analyzing his eligibility under the second prong of the Dhanasar framework. The second prong "shifts the focus from the proposed endeavor to the foreign national." Dhanasar, 26 I&N Dec. at 890. The issue here is whether the specific endeavor has substantial merit and national importance under *Dhanasar's* first prong.