U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37386174

Date: APR. 03, 2025

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 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 record did not establish that a waiver of the required job offer, and thus of a 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. *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 of Appeals 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 Petitioner endeavors to establish and manage, [redacted], in South Carolina, which will "offer[] a wide range of specialized engineering solutions aimed at increasing operational efficiency, reducing costs, and driving new development opportunities [] for industry operators." Generally, the Petitioner aims to improve manufacturing productivity in the automotive sector through [redacted] Specifically, the Petitioner "plans to offer innovative upgrades, alterations, and modifications to his customers, to reduce downtime, improve cycle times, and improve quality control." Then, upon analysis, the Petitioner intends to "implement appropriate enhancements, following lean manufacturing methods, to improve cycle times, quality control, safety, materials flow, and labor efficiency."

The Director determined that though the Petitioner demonstrated his proposed endeavor has substantial merits and he is well-positioned to advance it, he has not demonstrated the national importance of the endeavor or that, on balance, waiving the job offer requirement would be of benefit to the United States.

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. *Matter of 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. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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.

On appeal, the Petitioner asserts he intends to "bring his demonstrated abilities in optimal manufacturing efficiency in a priority industry," namely electric vehicle production. The Petitioner contends his proposed endeavor has national importance as electric vehicle production involves science, technology, engineering, and mathematics (STEM) fields and, further, aligns with national and executive-level initiatives. USCIS recognizes the importance of progress in STEM fields. *6 USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual/. However, "in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." *Id.* We acknowledge the Petitioner's proposed endeavor involves critical and emerging technologies and STEM fields. But merely working in a STEM field and with critical and emerging technologies is alone insufficient to establish the national importance of a proposed endeavor. The USCIS Policy Manual guidance provides that a STEM-involved endeavor may have national importance when the evidence sufficiently demonstrates it would help the United States stay ahead of strategic competitors

and potential adversaries or contribute to the United States achieving or maintain technology leadership or peer status among allies and partners. *See* 6 USCIS Policy Manual F.5(D)(2). Here, the Petitioner asserts [redacted] "will support the automative industry in the United States," including electric vehicle production, by "improving industry operators' production productivity and other operations." However, the Petitioner has not demonstrated [redacted] specific undertaking stands to sufficiently extend beyond his company and clients to impact the automotive industry more broadly at a level commensurate with national importance.

The Petitioner also links the national importance of his proposed endeavor to an asserted shortage of skilled engineers but shortages in a field are not alone sufficient to demonstrate an endeavor's national importance. The Petitioner has not submitted evidence that [redacted] would address a skilled engineer shortage on a level commensurate with national importance. We further note the U.S. Department of Labor addresses labor shortages through the labor certification process.

The Petitioner asserts his business plan demonstrates the substantial positive effects of his proposed endeavor, particularly in an economically depressed area. The Petitioner contends he plans "to engage his services for manufacturing clients in the [redacted] region, a recognized area of economic distress in the southeastern United States." The Petitioner's business plan specifies that [redacted] anticipates employing 29 employees in its fifth year, with payroll expenses exceeding four million, total sales exceeding seven million, and net profit exceeding one million at that time. The Petitioner claims his endeavor will also result in a job creation "multiplier effect" in the automotive manufacturing sector. And the Petitioner contends even the direct benefit of his endeavor to [redacted] clients would "inevitably have a favorable economic effect felt throughout the economy." However, the record does not contain sufficient supporting evidence to corroborate the projected financial figures for [redacted] or establish the significance of the data to show the endeavor would provide substantial economic benefits to an economically depressed area, the region, or national economy more broadly. While the proposed endeavor may stimulate economic activity to some degree, it is the Petitioner's burden to demonstrate the economic effects of his proposed endeavor will be substantial and at a level commensurate with national importance. Here, the Petitioner has not sufficiently demonstrated the proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects beyond his company and its clients, such that it would have broader implications for the United States.

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional 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 the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.