U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37294832

Date: APR. 4, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a reliability and maintenance engineer, 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 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. *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 Director determined that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional. The remaining issue on appeal is whether the Petitioner has established that a waiver of the requirements of a job offer, and thus a labor certification, would be in the national interest. For the reasons set forth below, we agree that the Petitioner did not demonstrate eligibility under the *Dhanasar* framework and will dismiss the appeal.

The Petitioner is a reliability and maintenance engineer. In his statement describing his proposed endeavor, the Petitioner stated that his "current interest is to provide reliability and maintenance strategies and tools that enhance safety, productivity, efficiency, and competitiveness" as either an employee or an entrepreneur. In particular, he expressed an interest in: leveraging artificial intelligence in maintenance and reliability; improving the design of new equipment by taking into account potential future maintenance requirements; and transferring his experience in maintenance and reliability to the new generations.

In addition, the Petitioner stated that his proposed endeavor would entail joining a major oil and gas company in the United States and helping them to address the following challenges: participate in the early design of carbon capture technologies to incorporate reliability and maintainability; strengthen their competitiveness compared to other European and Asiatic oil and gas companies in equipment and process reliability as a subject matter expert; provide process safety expertise; provide guidance for reliability centered maintenance strategies for old and new oil and gas facilities; and train, mentor, and coach junior oil and gas professionals.

The Director concluded that the Petitioner's proposed endeavor has substantial merit but not national importance under *Dhanasar's* first prong. On appeal, the Petitioner generally asserts that the Director's decision was based on an incorrect application of law and policy and that it was incorrect based on the evidence in the record.[2]

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.

[2] On appeal, the Petitioner presented additional evidence with his brief. While most of the documents were previously submitted, he also included a copy of his "E-3 "Electrical Engineering Fundamentals for Facilities Engineers'" course completion certificate, as well as copies of [redacted] webpages. Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial").

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. 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.

Here, the Petitioner has not established that his proposed endeavor's prospective impact rises to the level of national importance. The Petitioner places considerable emphasis on the importance of the reliability and maintenance engineering field and stresses the role that these professionals play in economic growth, competitiveness, safety, and sustainability. In support of his claim, the Petitioner submitted various industry articles and reports, including documents generally discussing various government initiatives to decarbonize energy-intensive industries, reduce greenhouse gas emissions, and strengthen domestic manufacturing. He also submitted a U.S. Department of Transportation National Highway Traffic Safety Administration investigation report related to a safety gap in [redacted] autopilot system.

The Petitioner contends on appeal that the Director found these articles and reports were credible and a positive factor in determining national importance and, therefore, he met the preponderance of the evidence standard. However, while the Director found these articles and reports *could* be a positive factor in determining national importance, the Director also noted that the evidence was not sufficient by itself to meet the Petitioner's burden of proof. We agree.

As the Director found, the articles and reports do not discuss the Petitioner or his proposed endeavor specifically, including how it might impact the field more broadly to rise to the level of national importance. Rather, they provide general background information on various governmental initiatives and investigations. While the Petitioner contends that his proposed endeavor has national importance because it aligns with national priorities including environmental safety, efficiency, and manufacturing reliability, 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.

Although the Petitioner points to, for example, the "crucial" role that reliability and maintenance engineers play for companies like Boeing in maintaining high safety standards, enhancing aircraft reliability, and ensuring regulatory compliance, these objectives simply describe the typical duties of a reliability and maintenance engineer and are insufficient in themselves to show that the Petitioner's specific proposed endeavor rises to the level of national importance. While we acknowledge the value of the reliability and maintenance engineering field, and its professionals, simply working in, or adjacent to, an important field is insufficient to establish the national importance of the proposed endeavor. We agree with the Director that these documents are insufficient to establish that the Petitioner's specific proposed endeavor would have a broader impact on the field, significant positive economic effects, or otherwise rise to the level of national importance.

The Petitioner also urges that "[f]ocus should be put on his proposed endeavor based on his extensive experience" as a reliability and maintenance engineer. He contends that his proposed endeavor "aims to provide engineering expertise in reliability and maintenance strategies and tools" and that his expertise not only enhances the reliability and safety of critical infrastructure but also contributes to economic stability and technological leadership. Additionally, the Petitioner claims the national importance of his future work is evidenced by a "strong interest" in his expertise from leading U.S. companies such as [redacted].

We have reviewed the Petitioner's statements, resume, certificates, and support letters. However, the Petitioner's knowledge, skills, and experience are considerations under *Dhanasar's* second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated the national importance of his proposed work. In this case, while the authors of the support letters express their high opinion of the Petitioner, his professional skills, achievements, and prior work in the field, they do not discuss his specific endeavor in the United States or explain why it is nationally important. Similarly, a review of the "correspondence" reportedly from prospective employers reveals they are general LinkedIn job alerts and not letters of interest or employment specific to the Petitioner as claimed. As such, this evidence is of little probative value in determining the Petitioner's eligibility under *Dhanasar's* first prong.

Likewise, while the Petitioner claims that his expertise in the oil and gas industry would be "extremely beneficial" for the U.S. economy, the record lacks detailed and probative evidence on the claimed economic impact directly attributable to the proposed endeavor. The Petitioner does not claim that he himself will employ U.S. workers and does not explain how his position with a company will directly result in the hiring of U.S. workers. Other than generally reiterating the importance of the reliability and maintenance engineering field and reasserting that his expertise and endeavor would create substantial positive economic effects, particularly in economically depressed areas, the record lacks detailed, objective evidence as to how his proposed work stands to directly impact the U.S. economy or benefit economically depressed areas such that it rises to the level of national importance.[3] *Matter of Dhanasar*, 26 I&N Dec. at 890 (providing that proposed endeavors with a "significant potential to employ U.S. workers" or "substantial positive economic effects, particularly in an economically depressed area" may indicate national importance).

The Petitioner also has not demonstrated how his research and development activities, including the integration of artificial intelligence to optimize maintenance processes and enhance equipment reliability, have significant national and global implications as claimed. The record contains little detail as to what novel strategies or tools he has or will develop and, importantly, how they offer original innovations that contribute to improvements or advancements in the field or otherwise have broader implications in the industry. For instance, the Petitioner claims to have made significant contributions to the field through the "innovative integration of artificial intelligence (AI) technologies" and "spearheaded the development and implementation of numerous cutting-edge projects and research initiatives." However, the record contains little detail as to what the integrations,

[3] The Petitioner also argues that *Dhanasar* does not require the endeavor to extend significantly beyond future employers or clients to impact the field or the economy more broadly at a level commensurate with national importance. However, in the decision, the Director did not indicate that this was a mandatory requirement. Rather, the Director considered the record as a whole and appropriately concluded that the evidence was insufficient to establish the proposed endeavor would broadly impact the field, have significant economic effects, or otherwise rise to the level of national importance.

projects, and initiatives were, or how they differed from what was already available in the market. He also has not explained how they broadly impacted the industry or nation. While he generally claims this work improves operational efficiency and significantly reduces downtime and maintenance costs across various industries, thereby benefiting the U.S. economy and manufacturing industries, he has not supported these claims of direct impact with specific, objective documentary evidence.

We have also considered the Petitioner's claims that he is actively disseminating his knowledge through training programs, publications, and collaborative projects and that he will share his expertise with the next generation of engineers, thus ensuring the continued advancement of the U.S. workforce in maintenance and reliability. However, 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 his work will sufficiently extend beyond the individuals he trains to affect the region or our nation more broadly at level commensurate with national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 893.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375. Because the record does not establish his proposed endeavor's national importance 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) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude he 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.