U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37618035

Date: APR. 4, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a petroleum 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 that the record did not establish the Petitioner's eligibility for a national interest waiver. 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

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
- On balance, waiving the job offer requirement would benefit the United States.

Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Petitioner is a petroleum engineer whose proposed endeavor is to continue working for his employer developing new fluid technologies for hydraulic fracturing. The Director determined that the record established the Petitioner's eligibility for the EB-2 classification as a member of the professions holding an advanced degree. However, the Director concluded that the record did not establish the national importance of the Petitioner's proposed endeavor. On appeal, the Petitioner contends that the Director's decision is in error. We conclude the record does not establish the Petitioner's proposed endeavor is of national importance and therefore he is not eligible for a national interest waiver as a matter of discretion.

A. EB-2 Classification

The Petitioner is an engineer specializing in petroleum engineering. He submitted a master's degree in petroleum engineering from [redacted] in Colombia. The Petitioner's diploma and transcripts are accompanied by an academic evaluation which states that his degree is equivalent to a U.S. master's degree in petroleum engineering. The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree and we agree.

B. National Interest Waiver

1. Substantial Merit

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Petitioner states that his proposed endeavor is in a STEM field; focusing on sustainable practices in the oil and gas industry. The record contains industry reports and articles on the importance of clean energy and U.S. government initiatives in support of sustainability in the industry. We conclude that the proposed endeavor has substantial merit.

[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).

2. National Importance

The Petitioner contends that the Director's decision is in error; stating that the decision violated USCIS policy as it did not sufficiently analyze the evidence in the record and that it misapplied the preponderance of the evidence standard. The Petitioner includes samples of various AAO decisions where we found that the Director's decision was deficient. While we agree with the Petitioner, that the Director did not sufficiently analyze the record; we concur with the Director's conclusion that the record does not establish the Petitioner's proposed endeavor meets *Dhanasar's* standard for national importance. *Dhanasar*, 26 I&N Dec. at 889.

The Petitioner seeks a national interest waiver to continue his work for his U.S. employer as a petroleum engineer to reduce the reliance on fresh water in hydraulic fracture treatments by introducing a nitrogen and carbon dioxide combination as the base for hydraulic fracturing fluid systems. On appeal, the Petitioner states that the Director "failed to understand the broader nature and impact of [the Petitioner's] work." The Petitioner then highlights a Department of Energy report on the prevalence of energy derived from oil and natural gas in the United States and its link to the economy. Further, the Petitioner highlights the vast nature of his employer's reach; being a Fortune 500 company and "one of the largest energy technology and oilfield companies in the world. . . ."

In *Dhanasar* we stated that, in determining national importance, the relevant question is not the importance of the field, industry, or profession; instead, we focus on "the specific endeavor that the Petitioner proposes to undertake." *Id.* We therefore "look for broader implications" of the proposed endeavor, noting that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* Here, the Petitioner mistakenly focuses on his employer's prospective impact and the national importance of the industry; rather than the impact of his specific proposed endeavor. The Petitioner presents new evidence on appeal to support the claim that the Petitioner's employer is one of the top oilfield service companies; however, this evidence only further establishes the scope of his employer's impact and not the impact of his specific proposed endeavor. The issue here is not the broader implication of the Petitioner's employer on the industry; but rather the potential prospective impact of the Petitioner's specific proposed endeavor as an engineer within their company on the industry. Here, the evidence relies on the general impact the Petitioner's employer has on the field and does not establish the prospective impact of the Petitioner's specific proposed endeavor on the industry.

Additionally, the Petitioner highlights evidence in the record on the importance of the industry in which he works. We acknowledge the importance of the industry; however, as stated above, the relevant question is not the importance of the industry or profession in which the individual will work; but the "the specific endeavor that the Petitioner proposes to undertake." *Id.* Here, the Petitioner improperly relies upon the importance of the industry to further establish the national importance of his proposed endeavor. Without sufficient documentary evidence of the specific proposed endeavor's broader impact in the industry, the Petitioner's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

The Petitioner contends that the Director did not properly analyze the letters of recommendation. The Director stated that these letters "provide details about the petitioner's character, skills, and work ethic" and detail his "personal accomplishments"; however, the Director concluded that the letters did

not explain how his "numerous personal accomplishments constitute recognition of achievements and significant contributions to the industry or field of oil and gas." We agree with the Petitioner, that this analysis is flawed; however, we too conclude the letters do not establish national importance. The letters of recommendation detail the projects in which each author collaborated with the Petitioner and attest to his experience and expertise in the field. While we acknowledge the Petitioner's experience as discussed in the record, this does not establish the national importance of his work as it does not speak to the prospective impact of the proposed endeavor. While past experience can be persuasive for prong two analysis, whether the Petitioner is well-positioned to advance the proposed endeavor, it does not sufficiently establish a claim of national importance. *Dhanasar*, 26 I&N Dec. at 890.

Furthermore; the letters of recommendation do not establish national importance as they lack specificity, corroborating evidence, and clarity on the prospective impact directly attributable to the Petitioner. The letters of recommendation also assert that the Petitioner's proposed endeavor will have "economic and environmental benefits." *Dhanasar* states, an 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.* The letters contend that the Petitioner's work will have economic benefits but they either lack specificity as by simply stating that his work will "lower costs", or the more specific statements lack corroborating evidence. For example, one author estimates that the Petitioner's proposed endeavor "could lead to savings of between $3.75 and $6.00 million per day." However, the Petitioner did not provide supporting evidence to corroborate these numbers. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. Here, stating numbers without providing further evidence is insufficient to establish the Petitioner's proposed endeavor will have the stated economic impact.

The authors also discuss the environmental benefits of the Petitioner's proposed endeavor as they state his project will "decrease water consumption in regions that often face water shortages" and he "provides an alternative method for capturing and storing CO2, thereby mitigating its contribution to the greenhouse effect." The record is unclear regarding how much his work will impact the environment and how much of the stated impact can be directly attributed to the Petitioner's proposed endeavor, or as discussed above; to his employer. For example, it is unclear if the proposed endeavor is the Petitioner's project or his employer's project. It is unclear what role he has within the project; aside from his job title of Senior Production Technologist for the company. The record does not state if he works on this project alone or has a team; whether he leads the project or contributes in a collaborative way; and how much of his time is spent on this project. Therefore, although there may be an impact; the scope of the impact is unclear, and it is unclear how much would be directly attributable to the Petitioner and his specific proposed endeavor.

On appeal, the Petitioner states that the Director failed to discuss his proposed endeavor being in a STEM field and relating to an area listed as a "Critical and Emerging Technology." While we agree, the Director did not address this in the decision, the Petitioner must still establish his proposed endeavor has national importance as it is presented in the *Dhanasar* framework. The Petitioner states that his proposed endeavor falls into the "Clean Energy Generation and Storage" category which is identified as a critical and emerging technology field. However, while his proposed endeavor may fall into this category, that alone does not mean his proposed endeavor rises to the level of national importance. The proposed endeavor itself must still meet the level of prospective impact set forth in

Dhanasar. For the reasons stated above, the Petitioner has not established his proposed endeavor rises to the level of national importance as set forth in the *Dhanasar* framework.

While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, he has not demonstrated eligibility for a national interest waiver. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, remaining *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

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.