U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37652926

Date: APR. 14, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an electrical 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 Petitioner did not establish that he qualifies for the underlying EB-2 classification or 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. 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 a national interest waiver, a petitioner must first show eligibility 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.

"Profession" is defined as of the occupations listed in section 101(a)(32) of the Act, 8 U.S.C. § 1101(a)(32),[1] as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation. 8 C.F.R. § 204.5(k)(2). An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 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. 8 C.F.R. § 204.5(k)(3)(i)(B). The petition must be accompanied by an official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive

[1] The listed occupations are architects, engineers, lawyers, physicians, surgeons, and teachers at certain institutions.

post-baccalaureate experience in the specialty. *Id.* Evidence relating to qualifying experience or training shall be in the form of letter(s) from current or former employer(s) or trainer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien or of the training received. If such evidence is unavailable, other documentation relating to the alien's experience or training will be considered. 8 C.F.R. § 204.5(g)(1).

If a petitioner demonstrates EB-2 eligibility, 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. *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,[2] 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.

II. ADVANCED DEGREE PROFESSIONAL

In support of the petition, the Petitioner submitted a "Certificate of Graduation" and an official academic transcript from [redacted] in South Korea reflecting that he earned a four-year Bachelor of Science degree from its department of electrical engineering in 2013. The Petitioner asserted that he qualified as a member of the professions with an advanced degree based on this bachelor's degree followed by five years of progressive experience in his specialty.

The Petitioner submitted a breakdown of his employment abroad with [redacted] (the foreign employer) indicating that he was employed as an electrical engineer from July 2013 to January 2019, a "Manager: Electrical Engineer" from January 2019 to December 2022, and as a "Senior Manager: Electrical Engineer" from January 2023 to March 2024. This document also included a brief duty description for each of his asserted positions. The Petitioner also provided a "Declaration of B-G-K- Verifying [the Petitioner's] Employment History with [the foreign employer]" dated June 5, 2024. This document listed B-G-K-'s title as "senior manager Human Resource Team" and reflected Petitioner's three positions at the company including his periods of employment and stating that he "has been dutifully employed by [the foreign employer] for around 10 years and 8 months."[3] Further, the Petitioner provided a translated "Certificate of Employment" on company letterhead dated in April 2023 listing the Petitioner as a senior manager on the "electronic team" and reflecting that he joined the company on July 8, 2013. The Petitioner also submitted a letter from a U.S. based employer [redacted] (the U.S. employer) dated in May 2024 stating that the Petitioner had been employed as a maintenance engineer in the company's casting plant based in Georgia since March 26, 2024.

[2] *See also 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).

[3] It is notable that both these documents were presented in English and not translated from Korean; and that neither document was included on company letterhead. However, the Petitioner did provide a copy of a business card reflecting B-G-K- as a senior manager on the human resources team at the foreign employer.

The Director later issued a request for evidence (RFE) indicating that the provided employment verification did not include the name and the title of its signatory. The Director pointed to the regulation at 8 C.F.R. § 204.5(g)(1) requiring the Petitioner submit evidence of work experience in the form of a letter from a former employer including the name, address, title of the writer, and a specific description of the duties performed. In response, the Petitioner provided a new "Declaration of B-G-K- Verifying [the Petitioner's] Employment History with [the foreign employer]" dated September 9, 2024, including the address of the foreign employer.

In denying the petition and concluding that the Petitioner did not sufficiently substantiate his five years of progressive work experience, the Director reasoned the Petitioner did not sufficiently explain why evidence of his foreign employment did not come in the form of an employment verification letter as required by the regulations.

On appeal, the Petitioner contends that the previously provided certificate of employment and the declarations from the company's senior human resources manager sufficiently demonstrate his five years of progressive experience. He states that USCIS has "imposed an unnecessarily rigid standard that disregarded clear evidence of his advanced qualifications." The Petitioner also now submits on appeal a "Certificate of Career" from the foreign employer dated in November 2024 listing his name, date of birth, the address of his U.S.-based employer, the date he joined the company (July 8, 2013), his department (electrical team), as well as his "professional experience," indicating that he was a "senior manager" from July 8, 2013, to March 26, 2024. This certificate is signed by the president and chief executive officer of the foreign employer, presented in English, but not presented on company letterhead, although it includes untranslated Korean in the footer. The Petitioner states that the foreign employer "as a large corporation, adheres to a standardized format for employment certificates." The Petitioner asserts he sufficiently supplemented his official career certificate with the provided human resource manager declarations to substantiate his foreign employment.

Upon review, we agree with the Director's conclusion that the Petitioner did not sufficiently substantiate his five years of progressive experience necessary to establish him as a member of the professions with an advanced degree. The Petitioner must submit an official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty. 8 C.F.R. § 204.5(k)(3)(i)(B). As noted by the Director, the regulation at 8 C.F.R. § 204.5(g)(1) requires the Petitioner submit evidence of work experience in the form of a letter from a former employer including the name, address, and title of the writer with a specific description of the duties performed.

Here, the Petitioner has provided a confusing array of employment documentation leaving uncertainty as to his asserted foreign employment despite stating on appeal that the foreign employer adheres to "a standardized format for employment certificates." For instance, in support of the petition, the Petitioner provided a "Declaration of B-G-K- Verifying [the Petitioner's] Employment History with [the foreign employer]" and a "Certificate of Employment." However, neither of these documents included a specific description of the duties performed and the initial declaration from the senior human resources manager did not reflect the address of the foreign company nor the name and title of the signatory along with the signature. As such, the Director requested an official employment verification letter meeting all the specific requirements of the regulation at 8 C.F.R. § 204.5(g)(1).

However, in response, the Petitioner provided an updated declaration merely including the address of the foreign company. Now, on appeal, the Petitioner provides yet another document, in this case, a "Certificate of Career," different from the previous two documents, including material discrepancies. For instance, the certificate of career lists the address of his U.S. based employer and indicates that his experience for his entire tenure of his foreign employment from July 2013 to March 2024 was as a "senior manager." However, the Petitioner previously indicated that he was only employed abroad as a senior manager from January 2023 to March 2024. It is also noteworthy that this newly provided certificate of career includes an untranslated footer making it difficult to assess the credibility of the document.[4] Likewise, it important to note that neither of the previously provided declarations from the senior human resources manager were submitted on foreign company letterhead, also leaving question as to their credibility. In contrast, the initial "Certificate of Employment" dated in April 2023 was submitted on company letterhead as were the letters verifying the Petitioner's brief employment in the United States.

In sum, despite stating that the foreign company has a standardized method for presenting employment certificates, the Petitioner submitted several different forms of documentation from the foreign company in differing formats. The Petitioner submitted several different documents in differing formats containing material discrepancies that have not been sufficiently resolved. The Petitioner must resolve discrepancies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. In this matter, the Petitioner has not submitted sufficiently credible supporting documentation to substantiate his claimed five years of progressive foreign employment.

Therefore, we conclude the Director's determination was correct; namely, that the Petitioner did not submit sufficient documentation required by the regulations to establish his five years of progressive post-baccalaureate experience in his specialty. For this reason, we conclude that the Petitioner did not demonstrate that he was a member of the professions with an advanced degree.

III. NATIONAL INTEREST WAIVER

In addition, the Petitioner did not establish eligibility for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* 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. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with the Director's conclusion that the proposed endeavor has substantial merit as it falls within the range of areas of substantial merit, namely business, science, and technology. *Id.* However, while the Petitioner has

[4] Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. *Id.*

established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner stated his proposed endeavor in the United States was to "lead the movement towards smart manufacturing in the United States," including "artificial intelligence (AI), automation, data usage, cloud connectivity, and industrial IoT, to increase the efficiency and agility of the traditional manufacturing process." The Petitioner indicated he would first implement manufacturing automation, next AI in the manufacturing line, and then machine learning in manufacturing plants. The Petitioner asserted that his proposed endeavor would enhance safety in the U.S. workplace and lead to better maintenance and reduced equipment downtime at manufacturing facilities. The Petitioner explained he would work at [redacted] in the United Stated and use his experience abroad to automate the sampling and measuring process of molten steel and the alloy iron injection process. He further stated that he would implement industrial robots to take samples and measures of the temperature of molten steel and raw material injection systems. The Petitioner submitted several diagrams and photographs of engineering process improvements he implemented for his asserted foreign employer, a manufacturer of brake pads.

In a request for evidence (RFE), the Director stated that the Petitioner did not sufficiently articulate his plans in the United States, noting that he focused mainly on his achievements abroad with his foreign employer. The Director concluded the submitted evidence did not show how his proposed endeavor would have a broad impact in his field. As such, the Director requested that the Petitioner provide evidence to establish the national or even global implications of his proposed endeavor, its potential to employ U.S. workers, how it would broadly enhance societal welfare or artistic enrichment, or how it would impact a matter that was a subject of a national initiative.

In response, the Petitioner emphasized that current steel manufacturers did not produce data for AI and deep learning utilization and that his proposed endeavor would involve "comprehensive data collection across at every stage of steel production." The Petitioner stated that adoption of this type of data collection at steel casting plants was "urgent for the survival of small and mid-sized manufacturers" who without this data would be "unable to take advantage of innovations from AI." The Petitioner submitted photographs and explanations of his U.S. employer's metal production processes, including how it stored and melted scrap metal, and alloyed, molded and poured it, among other similar industrial processes. The Petitioner asserted that he would implement a plan to collect data in the iron casting process like no other professional had previously, an initiative necessary to implement new technology in this process, including the utilization of robots during mold production and molten metal injection. The Petitioner stated that these innovations would enhance plant efficiency and product quality contributing significantly to the U.S. economic interests and technological leadership.

The Petitioner pointed to a U.S. Department of Energy report to Congress in July 2022 highlighting the need to develop cost-effective technologies and solutions that collect, share, and process information real-time and reduce life cycle energy in many sectors of the economy. The Petitioner stated that after two months of work abroad, he had refined his work such that he improved "the accuracy and efficiency of the process [and] decreased the mold defect rate from 3.5% to 2%." He indicated that only about 10% of manufacturers had adopted the robotic systems he utilized and planned to implement with his U.S. employer. The Petitioner also emphasized provided

recommendation letters, including one from a Professor D-H-, a stated expert in electrical engineering, explaining that the United States "stands to benefit greatly from integrating Smart Grid Systems" like that proposed by the Petitioner. Likewise, the Petitioner provided a letter from a Professor J-H-L-, an asserted leading expert in material science and engineering, indicating that there were significant barriers to quality and operational efficiency in the iron production process that could be addressed through "implementing AI-driven control systems that can optimize production in real-time, reducing human error, cutting costs, and improving overall safety and productivity." The Petitioner also submitted another recommendation letter from a Professor H-S-K, a distinguished expert in the field of electrical engineering," opining that the Petitioner's proposed endeavor was "forward-thinking and essential" and aligns well with national priorities related to renewable energy and efficient energy consumption.

In denying the petition and concluding the Petitioner did not demonstrate the national importance of his proposed endeavor, the Director determined that the provided evidence did not demonstrate the impact of his proposed endeavor more broadly on his industry or field. The Director indicated that although provided recommendation letters discussed the Petitioner's background and qualifications, they did not sufficiently discuss how his proposed endeavor would have a national level impact.

On appeal, the Petitioner contends that the Director required "an unrealistic level of self-evident proof of industry impact rather than considering the reasonable likelihood of national importance based on the documented benefits of proposed technological advancements." The Petitioner asserts that his proposed endeavor would provide smaller steel manufacturers with affordable and practical solutions to modernize operations and adopt new technologies without large capital investments, while also allowing them to boost productivity, reduce waste, and compete on a "previously unattainable level." The Petitioner states that his proposed endeavor would lower production costs, reduce manual labor, and generate new employment opportunities, creating jobs in an economically depressed area. The Petitioner asserts that his proposed endeavor would create an "essential bridge" for manufacturers to boost AI-driven solutions and would provide "a fully integrated, innovative, and accessible pathway for modernization for the broader industry."

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. 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.* 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.

The Petitioner asserts national level impacts that do not coincide with his stated employment in the United States. The Petitioner indicated that he would be employed as an electrical engineer in the United States with [redacted], where he would implement technology used abroad with his foreign employer, specifically technology in every aspect of iron casting such as utilization of robots during mold production and molten metal injection. The Petitioner also asserted that this would have a potential prospective impact on all small and medium size manufacturers, increasing the number of companies using these innovative technologies, emphasizing that only about 10% of manufacturers

sector adopted the robotic systems he planned to utilize. Likewise, the Petitioner contends that his proposed endeavor would enhance plant efficiency and product quality nation-wide, contributing significantly to the national economic interests and technological leadership of the United States. On appeal, the Petitioner emphasizes that his proposed endeavor would provide smaller steel manufacturers with affordable and practical solutions to modernize operations and adopt new technologies without large capital investments. However, the Petitioner submitted no business plans extending beyond his employer; as such, it is not clear how his implementation of data collection, robotics, and other technologies in one employer's steel casting operations would have a potential prospective national impact on all U.S. manufacturers, particularly since he indicated that there are over 600,000 such manufacturers in the United States.

The Petitioner further asserted that his proposed endeavor would have a national impact on safety at U.S. manufacturing facilities, but there is little evidence to support that the potential prospective impact of his endeavor would extend beyond his employer. The Petitioner states on appeal that his proposed endeavor would lower production costs and reduce manual labor generating new employment opportunities, while creating jobs in an economically depressed area. However, again, the Petitioner provided little support for this conclusion, such as the number of jobs it projected would be generated from his new data collection, robotics, and AI-driven technologies, including what specific impact this would have, if any, on any economically depressed areas. Despite assertions otherwise, the Petitioner does not sufficiently detail and document how his work would be materially different from any other similar experienced employee working his field, leaving doubt as to likelihood of its prospective national impact. The Petitioner must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner also points to recommendation letters from professors it claims support the potential prospective national importance from his proposed endeavor. However, the recommendations letters provide insufficient detail to support their wide-ranging claims of national importance. For example, one letter indicates that the United States "stands to benefit greatly from integrating Smart Grid Systems" like that proposed by the Petitioner, but it does not explain in detail how the United States would greatly benefit on a national scale. Another letter from a professor stated that "implementing AI-driven control systems that can optimize production in real-time, reducing human error, cutting costs, and improving overall safety and productivity," yet the recommendation letter provides little specificity on how the implementation of these methods and technologies would impact manufacturing efficiency and safety on a national-level. Likewise, the last recommendation letter from a professor stated that the Petitioner's proposed endeavor aligned well with national priorities related to renewable energy and efficient energy consumption. However, the letter did not describe these national priorities in detail, nor did it credibly discuss how the implementation of these approaches at one manufacturing facility would likely lead to a national-level impact on renewable energy and energy consumption. Generalized conclusory statements that do not identify a specific impact to the field have little probative value. *See e.g., 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 Petitioner appears to rely mainly on the Petitioner's past accomplishments with his foreign employer, including stating that he improved "the accuracy and efficiency of the process" and decreased "the mold defect rate from 3.5% to 2%." While we recognize that the Petitioner gained experience while employed abroad, a petitioner's expertise and record of success are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The Petitioner did not sufficiently articulate and support that his proposed endeavor would extend beyond his employer and more broadly impact manufacturing or steel production on a national level.

Further, the record does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 890. Although the Petitioner submitted non-specific and unsupported business plans asserting that his implementation of data collection and other technologies in iron casting would lead to positive economic impacts including in economically depressed areas, it does not submit credible projections as to the jobs and revenue his proposed endeavor would create. Again, the submitted evidence suggests that the Petitioner's proposed endeavor would not likely extend beyond his employer, and there were few substantiated positive economic impacts. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, he has not provided sufficient explanation of the prospective national impact directly attributable to his proposed work, or established how his endeavor would impact an economically depressed area. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

IV. CONCLUSION

Since the identified bases for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third 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); *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).

ORDER: The appeal is dismissed.