U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37808053

Date: APRIL 15, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a power and automation technologies company, seeks employment-based second preference (EB-2) immigrant classification of the Beneficiary, an engineer, 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).

Service Center Operations (SCOPS) denied the petition, concluding that 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;

[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).

- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

In its initial letter, the Petitioner stated the Beneficiary would continue his employment for the Petitioner as Field Service Engineer and focus "on conducting complex field technical assignments involving installing, commissioning, modifying, testing, inspecting, and repairing marine products and equipment, including both low and medium voltage switchgears."

In response to the second request for evidence (RFE), the Petitioner stated the Beneficiary's proposed endeavor "involves the installation and testing of highly complex medium-voltage switchboards, 800xa systems, protection relays, and other essential components, directly contributing to the advancement of electrification of maritime vessels in the United States."

The Director determined the Petitioner qualified for EB-2 classification as an advanced degree professional because he submitted evidence he holds the equivalent of a U.S. bachelor's degree in electrical engineering and over five years of progressive experience within his specialty. We agree. The only issue on appeal is whether a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

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. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90.

The Director determined the Petitioner did not establish the national importance of his proposed endeavor because he did not demonstrate that his proposed endeavor would have a broader impact on his field outside of his company, clients, or employer. On appeal, the Petitioner asserts the Director misapplied *Matter of Dhanasar* and the record shows the national importance of the Beneficiary's proposed endeavor.

The Petitioner asserts the Beneficiary's proposed endeavor has significant regional and national impact that rises to the level of national importance. As examples of the environmental and economic benefits of his proposed endeavor, the Petitioner described the Beneficiary's work on the [redacted] electric boats, and the

The Petitioner claims the adoption and utilization of the Petitioner's naval electrification technologies materially depends on the Beneficiary and the size and scale of the Petitioner's impact in the field of naval electrification originates from the Beneficiary's proposed endeavor. The Petitioner cited no evidence to support these claims. The record also does not establish that the Beneficiary's work on specific vessels had national or even global implications in his field. *See id.* at 889 (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

The Petitioner also claims his proposed endeavor has national importance because it supports federal government programs and initiatives including the Bipartisan Infrastructure law which allocates resources for electrifying ferry systems; the Federal Transit Administration (FTA) which provides funding for the purchase of electric ferries and reducing emissions from existing ferries; the Environmental Protection Agency's Clean Ports Program which provides funding to reduce air pollution from port and maritime activities; the U.S. Maritime Administration's (MARAD's) America's Marine Highway Program which supports the integration of marine transportation into the national freight network; the FTA's low or no emission grant program which supports the transition of ferry systems to electric alternatives; MARAD's port infrastructure development program which funds port and intermodal infrastructure projects; the proposed Zero-Emission Ferries Act which would create a national grant program for the electrification of ferry fleets; and the FTA's rural ferry program which ensures essential ferry services are provided to rural communities.

The Petitioner claims the Beneficiary "supports these initiatives by ensuring the effective installation, testing, and maintenance of electric ferry systems, facilitating their broader deployment." The Petitioner cites no evidence to support these claims. While the Beneficiary's proposed endeavor involves electrification of maritime vessels, the Petitioner has not established that his specific proposed endeavor would be implicated by these government programs and initiatives. The Petitioner did not submit evidence of these specific programs and initiatives and did not articulate how the Beneficiary's work for the Petitioner would impact or involve them in a manner commensurate with national importance.

The Petitioner submitted support letters from its Field Service Manager and Operations Manager, Marine U.S. Division, who state that the Beneficiary's work is in the national interest. The managers explain the Beneficiary's expertise in power, battery and energy storage systems in marine vessels and shore connection projects "advance important goals such as combating climate change." The managers also state the Beneficiary's "power and control retrofit projects help to improve passenger safety and increasing efficiency" and his "understanding in Automation and Control system maintenance/upgrades is crucial in advancing technologies in cybersecurity." The managers do not, however, describe how the Beneficiary's work for the Petitioner has or would extend beyond the individual equipment and vessels on which he works to impact these national interests on a level commensurate with national importance. *See id.* (explaining "we look for broader implications"). *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it relates to U.S. strategic interests).

The Petitioner submitted notices and articles on building a better grid initiative to upgrade and expand the nation's electric transmission grid, grid modernization and the smart grid, the Department of Energy's (DOE's) initiative to modernize the national grid, the status and outlook of the smart grid,

critical infrastructure sectors for energy and defense, the Biden-Harris Administration advances transmission buildout to deliver affordable, clean electricity, the CHIPS and Science Act, the proposed Infrastructure Investment and Jobs Act, Federal Highway Administration's Ferry Boat Program, Department of Transportation Maritime Administration's port infrastructure development program, building a clean energy economy, the Inflation Reduction Act's clean energy and climate programs, and the Department of Transportation Federal Highway Administration's federal-aid programs and projects. While these notices and articles address significant national issues, they do not discuss the Beneficiary's specific proposed endeavor. The Petitioner did not describe how the Beneficiary's work on equipment and vessels for the Petitioner would involve or impact these issues. Our assessment of national importance does not focus on the importance of a field or issues affecting a field in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. *Cf. id.* at 892 (citing media articles and other evidence documenting Congressional interest in Dhanasar's research).

In sum, the record does not establish that the Beneficiary's proposed endeavor has national, global or other broader implications in his field indicative of national importance. Although the record includes evidence of national programs and initiatives that involve maritime vessels, the Petitioner has not established that the Beneficiary's specific proposed endeavor is addressed by or impacts these programs and initiatives in a manner commensurate with national importance.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of the Beneficiary's specific proposed endeavor and the Beneficiary does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of the Beneficiary's eligibility under the second and third 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

The Petitioner has not established the national importance of the Beneficiary's proposed endeavor and the Beneficiary does not meet the first prong of the *Dhanasar* analytical framework. Consequently, the Petitioner has not demonstrated that the Beneficiary is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.