U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32831620

Date: AUG. 16, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a geoscientist, data scientist, and researcher, 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 Nebraska Service Center denied the Petitioner's Form I-140, Immigrant Petition for Alien Workers, concluding that the Petitioner was a member of the professions holding an advanced degree or their equivalent, but that the record did not establish he merited 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.

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. While neither the statute nor the pertinent regulations define the term "national interest," *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 Poursina v. USCIS*, 936 F.3d 868, 872 (9th Cir. 2019) (concluding that the 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.

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree as is required for the underlying EB-2 classification. Accordingly, the remaining issue to be determined on appeal is whether the Petitioner has established under the *Dhanasar* framework that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Petitioner stated that his proposed endeavor is to develop climate models that can predict groundwater depletion rates and assess the broader impacts of climate change on groundwater resources. The Petitioner asserted that such models will allow for a better understanding of future climate scenarios yielding substantial benefits for the United States, including empowering the government to make well-informed decisions with regard to groundwater resources and potentially fortifying the country's resilience, sustainability, and preparedness in the face of climate change impacts.

In support of the Petitioner's claim, he submitted, in pertinent part, his personal statement, several letters of recommendation, copies of his publications, articles related to the field of groundwater conservation, and a curriculum vitae and slides highlighting his education and previous work experience. The Director acknowledged that the Petitioner's proposed endeavor had substantial merit. We agree. However, the Director concluded that the Petitioner did not submit sufficient evidence to establish that his proposed endeavor is of national importance, that he is well positioned to advance the proposed endeavor, or that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. On appeal, the Petitioner contests the Director's decision. He claims that the record establishes his proposed endeavor is nationally important and generally claims that he is eligible for a national interest waiver. He also submits on appeal a summary of his research proposal. After considering the evidence, we agree that the Petitioner has not established his proposed endeavor is of national importance.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See id.* at 889. Furthermore, we consider the proposed endeavor's potential prospective impact, and "look for broader implications" noting that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* Additionally, "[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.

We acknowledge the evidence of the Petitioner's education and experience in the field of geoscience, including the information contained in his curriculum vitae, letters of recommendation, and publications. This evidence, however, relates to whether the Petitioner is well positioned to advance his proposed endeavor rather than whether his proposed endeavor is nationally important. Similarly, we note the articles he provided that discuss the importance of groundwater security and recognize the

national or even global implications of groundwater conversation and climate change. As noted above, however, our focus is on the specific endeavor that the Petitioner proposes to undertake rather than the importance of the industry or profession in which the individual will work. *See id.*

Here, the Petitioner has not offered sufficient information and evidence to establish his proposed endeavor to develop specific types of climate models are nationally important. In particular, while the Petitioner suggests generally that his models will allow for a better understanding of future climate scenarios which in turn will yield substantial benefits for the United States, he has not sufficiently explained or demonstrated how his specific models offer original innovations to advance, or otherwise have broader implications in, the field of groundwater conservation or are at a level that would have national implications in that field. Additionally, the letters of recommendation, while speaking highly of the Petitioner, do not specifically address the Petitioner's proposed endeavor or discuss in sufficient detail the impact his proposed endeavor will have.[2] Finally, the Petitioner makes no claim and submits no evidence regarding whether his endeavor has significant potential to employ U.S. workers or would have substantial positive economic effects commensurate with a level of national importance. Accordingly, we find the Petitioner has not established that his proposed endeavor is nationally important.

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, requiring that he demonstrate his proposed endeavor is nationally important. We therefore conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The Director also concluded that the Petitioner did not establish he was well positioned to advance his proposed endeavor, or that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification and the Petitioner does not specifically contest these conclusions on appeal. However, since our determination that the Petitioner's proposed endeavor is not nationally important is dispositive to our decision, we decline to reach and hereby reserve these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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).

ORDER: The appeal is dismissed.

[2] We note that one of the letters inconsistently claims that the Petitioner will help oil and gas companies make informed decisions about exploration and development activities, while another suggests he will provide the U.S. energy industry with petrophysical analysis. The Petitioner does not address these inconsistencies or otherwise explain how these letters support the national importance of his proposed endeavor.