U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36712285

Date: FEB. 13, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, a software development engineer, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, 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 petition, concluding that the Petitioner demonstrated he is well positioned to advance his proposed endeavor but did not demonstrate the national importance of the endeavor or that, on balance, it would be beneficial for the United States to waive the requirements of a job offer and thus a labor certification. 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:

[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 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.

Id.

II. ANALYSIS

The Petitioner asserts on appeal that he is a software development engineer. He endeavors to "employ advanced artificial intelligence (AI) and engineering techniques for improving machine learning models, refining datasets, optimizing training procedures to enhance search and advertising quality on digital platforms."

The Director determined the Petitioner is well-positioned to advance the proposed endeavor. However, the Director also found the Petitioner did not demonstrate the national importance of 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.

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. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* 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.

As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. Because the record reflects the proposed endeavor falls within one or more of these areas, the Petitioner established the substantial merit aspect. However, we concur with the Director that the Petitioner has not demonstrated the national importance of his proposed endeavor.

On appeal, the Petitioner claims the Director erroneously conflated his employment at [redacted] as a software developer with the scope of his endeavor to advance AI and machine learning to improve search and advertising quality across digital platforms. The Petitioner also claims the far-reaching impact of [redacted] search engine is clear, as it processes two trillion searches a year, globally. However, we do not find the Director's decision focuses solely on the Petitioner's position. Rather, the Director indicates the Petitioner endeavors to utilize machine learning and artificial intelligence to enhance [redacted] search engines for advertising and other searches. Further, the general scope and reach of [redacted] work cannot be relied upon alone to establish the importance of the Petitioner's own proposed endeavor. Rather, the Petitioner must demonstrate that his specific endeavor would result

in broader implications to the industry at a level commensurate with national importance, or otherwise result in substantial positive economic effects.

The Petitioner asserts he endeavors to focus on enhancing the quality of advertisements across digital platforms. The Petitioner contends this endeavor is of great importance because it will enable services and products to be viewable in environments where they will be seen; maintain the quality and effectiveness of digital advertisements, benefiting the global digital economy; and add new value in the coming decades due to its digitally enabled platform business models. The Petitioner contends his endeavor has national importance due to its far-reaching implications for the U.S. economy and national security. However, though the Petitioner asserts on appeal that his endeavor is distinct from his position at [redacted] the Petitioner has not provided an explanation as to how his work will be applied across digital platforms beyond his own employer and, therefore, how his work would result in broader implication in the field. Generalized conclusory statements that do not identify a specific impact in 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) (an agency need not credit conclusory assertions in immigration benefits adjudications). Further, we acknowledge the Petitioner's efforts in enhancing search and advertising quality in digital platforms, but the Petitioner has not demonstrated that any national economic and security implications would be directly attributable to his own work.

The Petitioner asserts his endeavor aligns with federal priorities, as artificial intelligence, machine learning, and deep learning are considered critical and emerging technologies, and the Petitioner's research has been funded through grants from the National Science Foundation. The Petitioner similarly notes his endeavor is in the field of STEM technologies and research. We recognize the value of such technological innovations and the importance of emerging technologies; however, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. The relevant question is not the importance of the field, industry, or profession in which the Beneficiary may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. The Petitioner asserts on appeal that he intends to research areas including enhancing search relevance for underrepresented languages and demographics, enhancing video understanding and search relevance of video, advancing privacy-preserving AI for search and advertising, and combating misinformation and bias in search and advertising. But here, the Petitioner has not sufficiently detailed or established how his endeavor will meaningfully impact the broad governmental initiatives of artificial intelligence, machine learning, and deep learning. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 24 I&N Dec. at 376. Further, the Petitioner has not asserted on appeal and the record does not establish that his endeavor has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *See Dhanasar* at 890. Overall, the record does not establish the national importance of the proposed endeavor, as required by the first prong of *Dhanasar.*

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional 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

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.