U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35931897

Date: FEB. 13, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, [redacted] seeks second preference immigrant classification (EB-2) for the Beneficiary, an assistant vice president, as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 classification. See section 203(b)(2)(B)(i) of the Act.

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner did not demonstrate that the Beneficiary merits a discretionary waiver of the job offer requirement 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 establish eligibility for a national interest waiver, a beneficiary must first qualify 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.

Once a petitioner demonstrates the beneficiary's eligibility for the underlying EB-2 classification, they must then establish that the beneficiary merits a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. Matter of Dhanasar, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. Dhanasar states that USCIS may, as matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates

[1] See Flores v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeal in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

that:

- The beneficiary's proposed endeavor has both substantial merit and national importance;
- The beneficiary 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 Director determined that the Beneficiary qualifies as a member of the professions holding an advanced degree. The issue on appeal is whether the Petitioner established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. Upon de novo review, we agree with the Director's determination that although the Petitioner demonstrated the Beneficiary's proposed endeavor has substantial merit, it did not establish the endeavor is of national importance, as required by the first prong of the Dhanasar analytical framework.[2]

The first prong of the Dhanasar analytical framework, substantial merit and national importance, focuses on the specific endeavor a beneficiary 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. To evaluate whether the proposed endeavor satisfies the national importance requirement we focus on the specific endeavor that the foreign national proposes to undertake and look to evidence documenting its "potential prospective impact." Id.

The Beneficiary currently works in the United States for the Petitioner, a financial services company, as an assistant vice president supporting its digital payments transaction processing system. The Beneficiary proposes to continue working in his current position, which entails optimizing the Petitioner's payments transaction processing capability using cloud computing, advanced computing data storage solutions, data processing and analysis techniques, and digital identity infrastructure technology. Specifically, the Beneficiary monitors its payments processing data feeds, ensures compliance with legal and business requirements, and identifies and resolves issues with the data feeds and pipelines, application outages, and performance issues. The Petitioner explains that the Beneficiary's work helps reduce risks and suspicious money laundering activity, contributes to the efficiency and reliability of its digital payments transaction operations, and ensures compliance with legislation. Stressing that it manages over a trillion dollars in assets, the Petitioner maintains the Beneficiary's work is critical to ensuring the security and reliability of its payments transaction processing and preserving the stability of the U.S. and global financial services systems.

We agree with the Director that the Beneficiary's proposed endeavor has substantial merit.

On appeal, the Petitioner argues the Director erred in its review of the evidence and application of the law by failing to apply the proper standard of proof, and instead imposing a more stringent standard than preponderance of the evidence. In assessing the evidence relating to the national importance of the proposed endeavor, the Petitioner contends the Director disregarded probative evidence about "the

[2] While we may not discuss every document submitted, we have reviewed and considered each one.

impact of the [B]eneficiary's endeavor on critical U.S. economic, national security, and technological interests" leading to the improper conclusion that the Petitioner did not establish the national importance of the Beneficiary's proposer endeavor. Given the Petitioner's global standing in the financial services industry and its contributions of significant revenue to the U.S. economy, the Petitioner contends the Benefiicary's work is "an essential element of [its] ability to properly and securely process tremendous volumes of financial transactions on behalf of customers and the American public each year."

We disagree with the Petitioner's claims that the Director disregarded evidence and misapplied the law when analyzing the national importance of the Beneficiary's proposed endeavor. To determine whether a petitioner has met their burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. See Matter of Chawathe, 25 I&N Dec. at 376; see also Matter of E-M-, 20 I&N Dec. 77, 79- 80 (Comm'r 1989). Here, the Director acknowledged and analyzed documents submitted, including the Petitioner's statements, letters, articles, and reports, but determined overall that the quality of the evidence lacked probative value in supporting its claim that the proposed endeavor is of national importance. The the proposed endeavor, whilst substantially meritorious, does not have the claimed potential prospective national or even global impact to the field, or broader implications rising to a level of national importance as contemplated by Dhanasar.[3]

In determining national importance, the Petitioner contends that the Director erroneously focused on the Beneficiary's specific occupational classification and job title of assistant vice president, instead of focusing on his proposed endeavor. We acknowledge that an endeavor is more specific than a general occupation and job title, and is, instead, the work that a beneficiary proposes to undertake specifically within such occupation. See generally 6 USCIS Policy Manual F.5(D)(1), https: //www.uscis.gov/policy-manual. The relevant question is not the importance of a profession, field, or industry in which a beneficiary will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake" and the endeavor's "potential prospective impact." Matter of Dhanasar, 26 I&N Dec. at 889. While the Director's decision states the Beneficiary's title is assistant vice president, its analysis does not focus on the occupation and title of assistant vice president, but instead focuses on the proposed work the Beneficiary intends to do and its potential prospective impact.

The proposed endeavor, as described, and the evidence in the record do not support the Petitioner's assertions that the potential impact of the endeavor extends beyond the Petitioner and its clients to have a broader impact commensurate with national importance. Although the Petitioner argues that the USCIS Policy Manual does not specifically state that an endeavor must extend beyond a beneficiary's employer to be of national importance, the Petitioner otherwise contends that the Beneficiary's endeavor would have potential prospective impact beyond its company and clients, extending to the national and global economies, national security, and societal welfare. As explained

[3] The Petitioner points out that contrary to the Director's conclusions, the Director's decision states, "[the Beneficiary's] work will have an impact on the field." We acknowledge the decision includes this statement and the Director's meaning of this statement is not explained and is unclear. However, the Director otherwise analyzes the evidence and explains how the evidence does not demonstrate the broader impact of the Beneficiary's endeavor rises to the level commensurate with national importance.

in Dhanasar and as emphasized in the USCIS Policy Manual, an endeavor "may have national importance because it has national or even global implications within a particular field, such as certain improved manufacturing processes or medical advances." Id. at 889 – 890; see generally 6 USCIS Policy Manual, supra, at F.5(D)(1). In addition, Dhanasar explains that economically, an endeavor with "significant potential to employ U.S. workers" or "other substantial positive economic effects, particularly in an economically depressed area" may be of national importance. Matter of Dhanasar, 26 I&N Dec. at 889 – 890. Whereas, endeavors such as classroom teaching, for example, without broader implications for a field or region, generally do not rise to the level of having national importance for the purpose of establishing eligibility for a national interest waiver. See id. at 893.

Here, much of the evidence in the record and the Petitioner's arguments focus on the importance of digital payments, payment security, artificial intelligence, the field of financial services, and the Petitioner's reach and impact on the financial services industry and the U.S. and global economies, instead of focusing on the Beneficiary's specific endeavor having a prospective impact on these matters. For instance, the record includes articles and reports discussing the growth of digital payments; cybersecurity and protecting consumer financial privacy; effects of banking distress on the U.S. economy; investment in artificial intelligence; and the importance of immigrant worker on the science, technology, engineering, and math (STEM) fields. However, the importance of the digital payments field and the financial services industry is not in dispute, but their overall significance and the need for qualified workers in such fields and industries does not establish the national importance of the proposed endeavor. The reports and articles do not discuss the Beneficiary's specific work having the claimed broader impact to his field, the economy, societal welfare, or national security. Moreover, if in fact STEM worker shortages can be addressed by adding qualified professionals like the Beneficiary, they would be better addressed through the U.S. Department of Labor's labor certification process.

In addition, we recognize U.S. national initiatives to advance STEM and strengthening our nation's technology, particularly technology recognized by the U.S. National Science and Technology Council as critical and emerging. However, the Beneficiary working with critical and emerging technologies, including artificial intelligence, cloud computing, cloud computing data security, and digital technologies, does not itself establish the national importance of the Beneficiary's proposed endeavor in particular. See generally 6 USCIS Policy Manual, supra, at F.5(D)(2). While USCIS acknowledges specific evidentiary considerations relating to STEM degrees and fields, "the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." See id. The Petitioner has not specified or provided evidence demonstrating how the Beneficiary's work would advance such technologies or have broader implications commensurate with national importance.

The Petitioner has not sufficiently detailed or provided supporting documentation of the Beneficiary's proposed work to understand how it would advance STEM technologies with sufficiently broad potential implications for his field or any other industry rising to the level of national importance. The Petitioner's statements characterize the Beneficiary's work as valuable for maintaining the reliability of the Petitioner's digital payments transaction processing operations, however, they do not sufficiently detail how his endeavor would be different from work typically performed by other individuals in a similar role with the Petitioner. For instance, the Petitioner has not detailed or established plans for the Beneficiary to introduce novel technologies or digital payments transaction processing advancements that may be disseminated to or adopted by others operating in the field or

industry, or otherwise articulate how he will contribute to development of our nation's digital payments transaction processing for the financial services industry. Instead, the Petitioner emphasizes the Beneficiary leveraging his digital payments transaction processing experience and knowledge to positively impact its clients' reliance and use of the Petitioner's financial services. Without further evidence, the Petitioner has not demonstrated the Beneficiary's work as an assistant vice president supporting the digital payments processing transaction processing system for the Petitioner has the potential to impact his field more broadly rising to the level of national importance.

The Petitioner provided an opinion letter from a professor of computer science and chair of the software engineering program at [redacted] in New York. While the opinion indicates the Beneficiary's endeavor is "to develop innovative, automated data pipelines, data storage frameworks, and applications for [the Petitioner's] payments transaction processing operations," it does not detail or provide evidence explaining such proposed innovations to determine whether his endeavor is of national importance. Moreover, the opinion describes how the Beneficiary's work impacts the Petitioner, instead of how the endeavor may have a broader impact beyond the Petitioner. The Beneficiary's work, the opinion maintains, helps the Petitioner contribute to the U.S. economy, improve its national and international standing, and strengthen its position as a leader in the financial sector while minimizing risk to investors and contributing to the overall stability of the financial sector.

The opinion also explains cloud computing, digital identity technology, and advanced computing, noting that the Beneficiary's work utilizing these technologies is of critical importance to national security, which is in accordance with national initiatives supporting advancement of critical and emerging technologies and of STEM professionals. While the opinion indicates the Beneficiary will utilize such critical and emerging technologies, it does not explain how the Beneficiary will advance such technologies and impact the national initiatives. As discussed above, the opinion's focus on the importance and need for STEM professionals working with critical and emerging technologies does not demonstrate that the instant specific endeavor would have a prospective impact in the field. Stating that working with cloud computing, digital payments transaction processing, and advanced computing is of importance, is not sufficient to meet the national importance requirement under the Dhanasar framework since it fails to address the potential prospective impact of the Beneficiary's specific endeavor.

The Petitioner's evidence otherwise mainly focuses on the Beneficiary's performance of his job responsibilities as an assistant vice president supporting the Petitioner's digital payments transaction processing system. The evidence does not, however, demonstrate the claims that the Beneficiary's endeavor would have the claimed broader implications in the field, a significant potential to employ U.S. workers, substantial positive economic effects, or significant potential to impact societal welfare, as contemplated by the first Dhanasar prong.

For instance, a letter from a vice president with the Petitioner describes the Beneficiary's current role with the Petitioner stating, the Beneficiary's work "has played a critical role in the advancement of the Petitioner's payments transaction processing capabilities" and has supported the financial stability of the Petitioner and other financial institutions with "critical contributions to the U.S. financial industry." Another letter from a vice president – principal technology manager with the Petitioner similarly describes the Beneficiary's role with the Petitioner stating, the Beneficiary's contributions are "unique and have significantly advanced the digital payments processing capabilities of financial

institutions operating in the U.S. financial sector . . . ." The Petitioner's letters make broad assertions about the prospective impact of the Beneficiary's proposed endeavor, instead of providing evidence detailing the Beneficiary's claimed unique contributions, or how the Beneficiary's work specifically has advanced his field, impacted other financial institutions, or made critical contributions to the U.S. financial industry. The Petitioner also provided letters from the Beneficiary's previous colleagues which detail his work with his former employers while making broad assertions that his proposed work will benefit the Petitioner's payments transaction operations and the financial industry. Similar to the letters from the Petitioner, these letters also do not detail how the Petitioner's specific work would impact the financial industry more broadly. The recommendation letters attest to the Beneficiary's technical knowledge and his work, which mainly relates to the second prong of the Dhanasar framework, instead of specifying the endeavor's prospective impact.

The Petitioner does not demonstrate that the Beneficiary's proposed endeavor extends beyond its business and its clients to impact the field or any other industries or the U.S. economy more broadly at a level commensurate with national importance. Beyond general assertions, the Petitioner has not demonstrated that the work the Beneficiary proposes to undertake as assistant vice president for its digital transactions processing systems offers the claimed original innovations that contribute to advancements in the financial services, digital payments transactions, and artificial intelligence industries or otherwise has broader implications for the financial services field. The claimed economic and societal welfare benefits depend on numerous factors and the Petitioner did not offer a sufficiently direct evidentiary tie between the Beneficiary's proposed work for its digital payments transaction processing system and the claimed impacts.

The Director further determined that the Petitioner did not establish that the Beneficiary is well-positioned to advance the proposed endeavor under *Dhanasar's* second prong, 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 under *Dhanasar's* third prong. Because the Petitioner did not sufficiently establish the Beneficiary qualifies for the first prong of the Dhanasar precedent decision, it has not demonstrated eligibility for a national interest waiver. This identified basis for dismissal is dispositive of the Petitioner's appeal, and therefore we decline to reach and hereby reserve the Petitioner's appellate arguments and eligibility under the second and third prongs of Dhanasar. 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

As the Petitioner has not met the requisite first prong of the Dhanasar analytical framework, it has not established the Beneficiary's eligibility for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.