U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36886629

Date: FEB. 18, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification for the Beneficiary 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 petition, concluding that the record did not establish eligibility for a national interest waiver as a matter of discretion. 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 the beneficiary is an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). 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. *Id.*

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 a 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
- On balance, waiving the job offer requirement would benefit the United States.

Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Beneficiary is an engineer whose proposed endeavor is to continue working for the Petitioner's company designing electric vehicle components. The Director determined that the record established the Beneficiary's eligibility for the EB-2 classification as a member of the professions holding an advanced degree. However, the Director concluded that the Petitioner did not establish eligibility for a national interest waiver. On appeal, the Petitioner contends that the Director erred in this finding. We conclude the record does not establish the proposed endeavor is of national importance and therefore he is not eligible for a national interest waiver as a matter of discretion.

A. EB-2 Classification

The Beneficiary is an engineer in the electric vehicle industry. He submitted evidence of a master's degree in electrical and computer engineering from [redacted] in Michigan. The Director concluded that the Beneficiary qualifies as a member of the professions holding an advanced degree and we agree.

B. National Interest Waiver

1. Substantial Merit

The first 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. *Id.* The Petitioner states that the proposed endeavor will have substantial merit in business, science, and technology, particularly in the domain of systems engineering for electric vehicles. The record contains industry reports and articles on the importance of the electric vehicle industry and U.S. government initiatives in support of the industry. We conclude that the proposed endeavor has substantial merit.

2. National Importance

The Petitioner contends that the Beneficiary's proposed endeavor will have a "national impact" and that the record reflects this through,

[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).

> (1) precisely defining the proposed endeavor; (2) establishing the impact that endeavor will have on [the Petitioner's] products and technologies; (3) documenting the significant impact those products and technologies will have on the U.S. automotive sector and the development of electric vehicle technologies; and (4) documenting that the development and adoption of electric vehicle technologies is a stated policy goal of the U.S. government, thereby documenting the importance the Beneficiary's endeavor will have to the nation.

The Petitioner states that the Beneficiary's proposed endeavor is, "in the field of advanced system architecture design of [electric vehicle] components . . . that will allow [the Petitioner] to. . .expand its. . . offerings. . . ." The Petitioner highlights a letter in the record written by the Beneficiary's direct manager which discusses the Beneficiary's role in the company; leading systems engineering activities and developing strategies for verification and validation to meet requirements for test cases and test steps. The Petitioner next states that the Beneficiary's proposed endeavor allows the Petitioner to continue to develop and manufacture its electric vehicle parts. Here, the Petitioner points to a letter in the record that states that the Beneficiary's expertise has been critical to his assigned projects. While these letters speak to the Beneficiary's position, the projects he has been assigned, and his experience and expertise, they do not discuss in detail the specific impact of his proposed endeavor. The record lacks specificity as to the impact his proposed endeavor has on his assigned projects. For example, one letter states, in part, that the Beneficiary "plays a critical role in [the Petitioner's] efforts to drive innovation within the [electric vehicle] industry." The letter explains the Beneficiary's job and that his role is critical, but it does not discuss the prospective impact of the Beneficiary's proposed endeavor. The letter states his "contributions. . .are invaluable" but does not specify the impact of his contributions. Therefore, record does not establish the prospective impact of his proposed endeavor.

In addition, the letters in the record focus mostly on his experience, expertise, and knowledge in the field. For example, the letters use language such as, the Beneficiary's "extensive experience. . . have made him invaluable to our current projects" and that he is a "highly talented engineer" and "his expertise has been instrumental." Another letter states the Beneficiary's "critical contributions and experience . . . have made [the Beneficiary] uniquely qualified." While we acknowledge the Beneficiary's experience and expertise as discussed in the record, this does not establish the national importance of his work as it does not speak to the prospective impact of the proposed endeavor. While past experience can be persuasive for prong two analysis, whether the Beneficiary is well-positioned to advance the proposed endeavor, it does not sufficiently establish a claim of national importance. *Dhanasar*, 26 I&N Dec. at 890.

The Petitioner contends that the Director did not properly weigh the Beneficiary's impact and applies "the premise that any national impact attributed to the Beneficiary must be disregarded if that impact is also closely related to the Beneficiary's employment or cannot be attributed solely to the Beneficiary's exclusive efforts." In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession; instead, we focus on "the specific endeavor that the [Beneficiary] proposes to undertake." *Id.* 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.*

The Petitioner states that the evidence in the record establishes that the products and technologies they develop have "national and even global implications." The Petitioner mistakenly relies on their own prospective impact rather than the impact of the Beneficiary's proposed endeavor. We recognize the value of the Beneficiary's work within the Petitioner's company; however, working in an important field is insufficient to establish the national importance of the proposed endeavor. Although we acknowledge that the Beneficiary's role as an engineer and his assigned projects are important to the Petitioner's company, the issue here is not the broader implications of the Petitioner's company, but rather the potential prospective impact of the Beneficiary's specific proposed endeavor as an engineer within their company. The record focuses on the impact the Petitioner has on the electric vehicle industry but does not establish an impact directly attributable to the Beneficiary or his specific proposed endeavor. The evidence does not sufficiently demonstrate how the Beneficiary as a single employee would affect the industry more broadly.

Lastly, the record includes evidence of various government initiatives in support of the electric vehicle industry. We acknowledge the importance of the industry; however, as stated above, 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 [Beneficiary] proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner improperly relies upon the importance of the industry to further establish the national importance of the Beneficiary's proposed endeavor. Without sufficient documentary evidence of the specific proposed endeavor's broader impact in the industry, the Beneficiary's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Beneficiary's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, remaining *Dhanasar* 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).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that they are eligible for or otherwise merit a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.