U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36026039

Date: JAN. 08, 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 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 EB-2 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 qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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.

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

[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).

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

The Petitioner stated that his "proposed endeavor is to advance the financial services sector in the United States by focusing on the intersection of financial technology, regulatory compliance, and consumer protection." He indicated that his undertaking involves "guaranteeing regulatory compliance and improving consumer protection through the innovative use of advanced analytics and data science." The Petitioner also asserted that he planned to create "advanced analytics frameworks and real-time alerting systems that aim at preemptively identifying potential regulatory violations." The Petitioner further noted: "Leveraging his role as Digital Analytics Manager and his expertise in analytics technologies, [the Petitioner] plans to lead efforts in improving financial regulations and operational efficiencies by encouraging regulatory agencies and financial institutions to work together and by pushing for the broad use of analytics-driven compliance methods."[2]

In response to the Director's request for evidence, the Petitioner stated:

> As the Digital Analytics Manager at [redacted] I have led important projects that substantially increased the bank's analytical capabilities, particularly through the development of over forty Tableau dashboards. These innovations have streamlined operational processes and have also elevated customer service standards, thereby supporting the bank's strategic transition towards data-driven decision-making and compliance with financial regulations.
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> . . . .
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> Upon securing the EB-2, my ambition is to further my contribution to the financial services sector in the United States, focusing particularly on the intersection of financial technology, regulatory compliance, and consumer protection. My global perspective, cultivated through diverse professional experiences, alongside my demonstrated leadership and technical understanding, uniquely positions me to drive forward innovations that will benefit the industry and its clientele.
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> . . . .

[2] At the time of filing, the Petitioner was working for [redacted] as a Digital Analytics Manager. He indicated that his work involves managing "a team of high performing digital analysts to support digital platform and product initiatives with analytics and insights to measure and improve product implementation, performance, and experience." As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for him to have a job offer from a specific employer. However, we will consider information about his position to illustrate the capacity in which he intends to work in order to determine whether the proposed endeavor meets the requirements of the *Dhanasar* framework.

> In the future, I plan to actively participate in federal banking communities and continue to gain advanced certifications in financial regulations. This ensures I stay informed about regulatory challenges and have a solid foundation to advocate for and implement technological innovations that enhance consumer protection and promote regulatory compliance within the U.S. financial sector.
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> . . . .
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> In conclusion, my extensive experience and leadership in the fields of data analytics and digital innovation within the financial services sector render me a valuable asset to the United States. My dedication to advancing regulatory compliance, consumer protection, and technological innovation aligns with the critical needs of the industry. I am confident that my continued endeavors in this field will promote economic growth, drive technological advancements, and contribute to a more secure and equitable financial system. My professional journey in the U.S. has equipped me with the insights, network, and expertise necessary to make lasting contributions to the financial technology landscape.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

The Director concluded, however, that the Petitioner did not establish the national importance of his proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. 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 potential prospective impact of his proposed work.[3]

On appeal, the Petitioner asserts that the Director's decision disregarded the USCIS policy update relating to "National Interest Waivers" from January 2022 relating to "evidentiary considerations for people with advanced degrees in STEM." While the policy update explains how the *Dhanasar* framework can apply to science, technology, engineering, and mathematics (STEM) graduates and entrepreneurs, the Petitioner still must meet the three prongs set forth in *Dhanasar* to establish it is in the national interest that USCIS waive the requirement of a job offer, and thus the labor certification.

[3] The Director stated that the Petitioner "did not offer sufficient evidence to demonstrate that the proposed endeavor stands to have implications beyond [redacted] and its clientele to impact the field more broadly or to have substantial positive economic effects."

The Petitioner argues that "he has a plan to benefit the United States by enhancing consumer protection, and that this plan is something that he has the expertise and connections to do, regardless of his position at [redacted]. He asserts that his plan "was fully thought out and cannot be fairly reduced to a single set of job duties at a single company." The Petitioner points to a letter from W-J-, Vice President and Senior Digital Analytics Manager at [redacted], who stated:

> I want to recognize the ways in which [the Petitioner's] work goes beyond the scope of our company. As a leader in digital regulatory compliance and financial analytics, [the Petitioner's] exceptional work has empowered U.S. citizens and customers to access banking services more easily, securely, and transparently, while protecting their personal data and providing them with more reliable lending options. As such, I can attest that his work whether at [redacted] has impacted our industry in ways that extend far beyond the narrow scope of an individual organization.

While the Petitioner's proposed endeavor may improve business operations for his current or future employers and services for their customers, he has not provided evidence demonstrating that his proposed consumer protection and banking projects would affect the U.S. financial services sector on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims.

The letter from W-J- also discussed the Petitioner's work for [redacted] on its "Email Marketing Preference Dashboards" and other assigned projects as well as his mentoring of coworkers.[4] The Petitioner presented additional letters of support from V-P-, K-T-, M-C-, M-G-, P-R-, and S-D- further describing his data analytics capabilities and experience.[5] The Petitioner's skills, knowledge, and prior work in his field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong.

In addition, the Petitioner provided an "Analysis and Advisory Evaluation" letter from Dr. J-C-, Professor of Mathematics at the [redacted], in support of his national interest waiver. Dr. J-C- contends that the Petitioner's proposed work is of national importance because his generic occupation of data analytics manager and the financial services sector in which he works stand to benefit the U.S. economy. The issue here, however, is not the national importance of the profession or industry in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889. The letter from Dr. J-C- and the other letters of support do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's

[4] The Petitioner's "Personal Statement" indicated that he planned to offer "mentorship programs" at his company. While this work has substantial merit, the record does not establish that his proposed mentorship activities stand to impact the data analytics field or financial services industry more broadly, as opposed to being limited to his mentees. Accordingly, without sufficient documentary evidence of their broader impact, the Petitioner's proposed mentorship activities do not meet the "national importance" element of the first prong of the *Dhanasar* framework. Likewise, in *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893.

[5] V-P-, K-T-, and P-R-'s letters also comment on the importance of data analytics managers in general.

specific proposed work offers broader implications in his field or industry or substantial positive economic effects for our nation that rise to the level of national importance.

The Petitioner also submitted articles on the importance of ensuring that financial institutions comply with consumer protection laws, minimizing economic impact on small businesses while ensuring consumer protection, maintaining technological expertise among regulatory staff overseeing financial technology developments, promoting innovation and technological advancement, enhancing the cybersecurity and resilience of the U.S. financial sector, and ensuring responsible development of digital assets. Furthermore, the record includes information about data scientists, critical and emerging technologies, and the Federal Government's research and development priorities, regulating junk fees, the multiplier effect of innovation jobs, White House actions to attract STEM talent, the financial technology industry, efforts to combat money laundering, and problems consumers experience in the marketplace. The Petitioner claims that these articles support the national importance of his proposed endeavor. The determination of national importance does not focus on the importance of one's field in general or of government initiatives aimed at promoting innovation and improving the U.S. economy, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the aforementioned articles mention the Petitioner or his planned projects, or otherwise speak to the potential prospective impact of his specific proposed endeavor.

The Petitioner contends that his "proposed endeavor has national importance on the basis that it will enhance financial stability and economic growth in the United States" and promote "job creation" in our country. As for the job creation and economic effects that the Petitioner asserts his proposed endeavor will offer, the record does not contain sufficient supporting evidence. The preponderance of the evidence standard requires the evidence demonstrate that the petitioner's claim is probably true, where the determination of truth is made based on the factual circumstances of each individual case. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, truth is to be determined not by the quantity of evidence alone but by its quality. *See id.* Here, lack of supporting details and evidence detracts from the probative value of the Petitioner's claim regarding job creation or other substantial positive economic effects.

The Petitioner further argues that his "innovative approach to regulatory compliance can stimulate further innovation in the financial technology sector," but he does not explain the originality of his specific approach or provide evidence that it stands to have broader implications in his field or industry beyond his employer and its customers. He also asserts that his "proposed endeavor strengthens national security and consumer protection." The Petitioner, however, has not provided evidence showing that his specific proposed work would affect U.S. consumers or our country's national security more broadly at a level commensurate with national importance.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. While the Petitioner's statements reflect his intention to provide data analytics services for his employer that ensure regulatory compliance and improve consumer protection, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, we conclude the Petitioner has not shown that his proposed

endeavor stands to sufficiently extend beyond his employer and its customers to impact his field, the financial services industry, our country's national security, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's projects would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890.

The Petitioner has not established that his 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.

B. The Remaining *Dhanasar* Prongs

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. As this issue is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of his eligibility under the second and third prongs of the *Dhanasar* framework. *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, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.