U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43195953

Date: JUL. 08, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a mining engineer, 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).

USCIS 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 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:

- The proposed endeavor has both substantial merit and national importance;

[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 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 stated in the initial petition that he will function in the permanent position of mining engineer at [redacted] Phase 1 project where his primary duties will include "conducting underground lateral development and mining services, executing essential operational tasks such as drilling, mucking, and cable bolting, and installing critical underground support structures." He also stated that he proposes to "improve the operational performance, safety, and cost-efficiency of U.S. based mining companies by providing highly-specialized and tailored consulting services that are focused on underground mine systems, shift performance management, and tactical operations control." In response to the request for evidence, the Petitioner clarified that he would continue to work as a miner for [redacted] and intends to "improve the operational performance, safety, and cost-efficiency of U.S. based mining companies by providing specialized consulting services through his mining consultancy company, [redacted]

The Petitioner indicated that the logistics of a mine are critical for safety and efficiency and that experienced mine dispatchers and supervisors are necessary to schedule and dispatch workers, crew, equipment and service vehicles, and serve as the central communication hubs for mines. The Petitioner further stated that the [redacted] mine stands as a "critical asset of national importance [redacted]

The issue on appeal is whether the Petitioner has established the national importance of his proposed endeavor, as required under the first prong of *Dhanasar*. 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. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with USCIS' conclusion that the proposed endeavor has substantial merit, but the Petitioner did not sufficiently establish it has national importance.

The record contains letters of recommendation, industry reports and articles, among others.[2] USCIS concluded that the record did not establish the national importance of the endeavor as it did not show that the endeavor would have broader implications beyond the operational needs of the Petitioner's current employer. On appeal, the Petitioner maintains that he established the broader implications of his proposed endeavor.

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

On appeal, the Petitioner argues that the proposed endeavor has national importance because it seeks to improve the domestic mining of critical minerals through his expertise in block-cave mining. The Petitioner contends that critical minerals are essential to the U.S. economy, national security, energy production, advanced manufacturing, and supply chain operations. In support, the Petitioner submits reports from the U.S. Department of the Interior and the U.S. Department of Energy identifying critical minerals as vital to the nation's economy and national security interests. The Petitioner also submits reports from the International Energy Agency, industry publications, and new articles discussing the increasing demand for copper, the need to expand domestic production, and the federal government's efforts to reduce reliance on foreign sources of critical minerals. In addition, the Petitioner states that block-caving mining is an important mining method in the mining industry and will contribute to critical mineral production.

We acknowledge the Petitioner's evidence; however, this evidence primarily established the importance of the critical minerals industry rather than the national importance of the Petitioner's proposed endeavor. The determination of national importance does not focus on the importance of one's field or industry in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles and reports mention the Petitioner or his planned projects or otherwise speak to the potential prospective impact of his specific proposed endeavor.

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national 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 stated that he intends to improve the operational performance, safety, and cost-efficiency of U.S. mining companies by providing specialized consulting services. He also stated that he will apply his expertise in block-cave mining while working on projects for his employer. However, the record does not show how these activities would extend beyond benefiting the individual mining companies that receive his services. While the Petitioner may improve operational efficiency and safety at the mines where he works, the record does not explain how his individual work would lead to broader changes in mining practices or otherwise have an impact on the mining industry as a whole. The Petitioner also claims that his work will strengthen the domestic supply of critical minerals and support the national economic and national security interests. However, these statements are general and are not supported by evidence showing how the Petitioner's specific work would produce these broader results.

The Petitioner submitted letters of recommendation describing his work in mining operations and stated that he is a skilled mining engineer, an effective supervisor, and a valuable employee. These letters demonstrate that the Petitioner has made meaningful contributions to his employers and possesses technical expertise. However, they primarily describe the Petitioner's past work at the [redacted] mine and explain how his efforts benefited that mining operation. For example, they state that he improved productivity, coordinated underground operations, trained personnel, optimized equipment use, and supported safe and efficient production. However, they do not explain how these activities have broader implications for the mining industry or otherwise rise to the level of national importance. Although one author stated that the Petitioner's expertise "will undoubtedly contribute

significantly to the mining industry at large in the United States," this statement is largely conclusory. The letter does not explain how the Petitioner's proposed endeavor would extend beyond the success of the companies that may employ him or identify a broader impact on the mining industry. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims.

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. 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 specific proposed endeavor stands to sufficiently extend beyond his company or clients to impact his field or the mining industry more broadly at a level commensurate with national importance.

Finally, the Petitioner has not established that the endeavor would have a "a significant potential to employ U.S. workers" or otherwise reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. The Petitioner did not submit sufficient evidence showing that his proposed endeavor would create jobs, generate significant economic activity, or otherwise result in measurable economic benefits in the United States. The Petitioner generally states that his work on his project will lead to additional hiring, increased operational efficiency, and economic growth. He also references the importance of copper production and critical minerals for the economy. The evidence primarily established that the mining industry is important, but it does not sufficiently demonstrate that the Petitioner's proposed endeavor itself is likely to produce substantial positive economic effect. Without adequate evidence demonstrating any specific U.S. economic impact, job creation, or other significant economic activity directly attributable to his future work, the claims that the endeavor will provide substantial, direct positive economic effects is unpersuasive. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner has not established the national importance of his specific proposed endeavor and does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby 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) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach").

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we find that they have not established that the Beneficiary is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are

otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.