U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31763142

Date: JUL. 26, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a project manager in the oil and gas industry, 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).

The Director of the Nebraska Service Center denied the Petitioner's Form I-140, Immigrant Petition for Alien Workers, concluding that the record established the Petitioner was a member of the professions holding an advanced degree or their equivalent, but did not establish that he was eligible for and merited 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 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. While neither the statute nor the pertinent regulations define the term "national interest," *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.

Id.

III. NATIONAL INTEREST WAIVER

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree or their equivalent as required for underlying EB-2 classification. Accordingly, the remaining issue to be determined on appeal 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 under the *Dhanasar* framework.

The first prong of the *Dhanasar* framework, 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 support of his request for a national interest waiver, the Petitioner provided, in part, a personal plan wherein he describes his proposed endeavor as occupying a project management lead position within a company in the oil and gas industry in the United States. He states that in this role, he will serve as an inspiring leader for the company he works for and will be responsible for tasks that include: coordination with members of a team to ensure adherence to a project's requirements and schedule; create status reports, project communications plans, user manuals, and training materials; oversee maintenance and repair; ensure legal compliance; and transfer knowledge to his peers and clients through lectures, workshops, and seminars. More generally, he claims he will help U.S. oil and gas companies find the best solutions, increase productivity, reduce costs, increase safety, efficiently manage resources, and be more sustainable and environmentally responsible.

The Petitioner also provided an expert opinion letter that claims, with regard to national importance, that the proposed endeavor "will result in higher safety, efficiency, and productivity of oil and gas operators as well as increased knowledge among U.S oil and gas industry professionals regarding the latest innovations and methods in the field of oil and gas." The letter continues saying that the Petitioner will focus "on providing technical knowledge to U.S. gas and oil companies and use his professional experience to help these companies increase process safety for both the people and the environment." The letter then describes the importance of the oil and gas industry to the U.S. economy.

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

Finally, the Petitioner provided letters of recommendation that speak generally to the Petitioner's overall character and ability, as well as articles describing the importance of oil and gas to the economy of the United States and the roles, responsibilities, and importance of project managers in general.

The Director concluded that the Petitioner's proposed endeavor has substantial merit but was not of national importance. On appeal, the Petitioner contests the Director's conclusion regarding the national importance of his proposed endeavor.

The relevant question regarding national importance 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 foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further stated that we consider the proposed endeavor's "potential prospective impact," and "look for broader implications" noting that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* Further, "[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.

We acknowledge the Petitioner's experience in the field of project management for oil and gas companies, as well as the overall impact oil and gas has on the economy of the United States. As noted above, however, our focus is on the specific endeavor that the Petitioner proposes to undertake rather than the importance of the industry or profession in which the individual will work. *Matter of Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner has not offered sufficient information and evidence to demonstrate the benefits of his work as a project manager for a company in the United States would extend beyond the specific company for which he intends to work. Furthermore, while he claims he will help U.S. oil and gas companies in multiple ways, he does not sufficiently explain or demonstrate how the specific work he proposes to undertake offers original innovations to advance, or otherwise has broader implications in, the field of project management in general, or more specifically within the oil and gas industry.[2] Finally, while the Petitioner provides information regarding the economic impact of oil and gas companies to the economy of the United States, and generally asserts that his proposed endeavor will contribute to the success of these companies, he does not sufficiently address, and the evidence he submitted did not otherwise establish, how his role as a project manager for a specific company has significant potential to employ U.S. workers or other substantial positive economic effects to support his claims. Accordingly, we find the Petitioner has not established that his proposed endeavor is nationally important.

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, requiring that he demonstrate his proposed endeavor is nationally important. We therefore conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

[2] We also note the record reflects that the Petitioner has not worked since 2013, which calls into question the degree to which his experience remains relevant to his proposed endeavor.

The Director also concluded that the Petitioner did not establish he was well positioned to advance his proposed endeavor, or that on balance it would not be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification under the remaining *Dhanasar* prongs. While the Petitioner contests these conclusions on appeal, because our determination that the Petitioner's proposed endeavor is not nationally important is dispositive of his appeal, we decline to reach and hereby reserve the appellate arguments on these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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).

ORDER: The appeal is dismissed.