U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43192517

Date: JUN. 24, 2026

Appeal of U.S. Citizenship and Immigration Services Decision

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

The Petitioner, a controls 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).

U.S. Citizenship and Immigration Services (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.[1] 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

[1] 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.*

the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as matter of discretion,[2] 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.

II. ANALYSIS

The Petitioner is currently employed as a controls engineer at an engineering company. The Petitioner "proposes to advance the modernization of American manufacturing by integrating Industry 4.0 technologies, such as the Industrial Internet of Things (IIoT), advanced [Supervisory Control and Data Acquisition (SCADA)] systems, predictive analystics, and intelligent safety controls, into legacy industrial automation frameworks." He further explains that he plans "to enhance operational efficiency, increase system reliability, improve workplace safety, and enable scalable transformation across key manufacturing sectors."

USCIS determined that the Petitioner's proposed endeavor has both substantial merit and national importance.[3] However, USCIS concluded that the Petitioner did not establish that he is well-positioned to advance the proposed endeavor or that, on balance, waiving the job offer requirement would benefit the United States.

The second prong shifts the focus from the proposed endeavor to the individual, and whether they are well-positioned to advance it. *Matter of Dhanasar*, 26 I&N Dec. at 890. In determining whether a petitioner is well-positioned to advance their proposed endeavor, we consider factors including but not limited to: the individual's education, skills, knowledge, and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.*

The record includes documentation of the Petitioner's curriculum vitae, master's degree, software certification, two letters of recommendation, and two expert opinion letters. The Petitioner contends on appeal that "USCIS applied improper legal standards and a level of scrutiny that is inconsistent with" the USCIS Policy Manual. He also asserts he provided "evidence across several of the recommended areas listed in the USCIS Policy Manual" but that USCIS inappropriately discounted "this compelling evidence on the grounds that the Petitioner did not submit evidence across every potential evidentiary category." In addition, the Petitioner contends USCIS erroneously applied an "influence" standard when determining that the Petitioner did not establish that he is well positioned to advance his proposed endeavor.

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[2] *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).

[3] We will not address the first prong in this decision and will reserve it. *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).

Regarding the use of the word "influence," USCIS' assessment of the evidence under *Dhanasar's* second prong is consistent with USCIS policy guidance, which, among other evidence, considers evidence of whether the person's work has influenced the field of endeavor as relevant evidence that may demonstrate a petitioner is well-positioned to advance his proposed endeavor. *See generally 6 USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual (providing, as guidance, many examples of evidence that may demonstrate a person is well-positioned to advance their proposed endeavor). USCIS identified the relevant evidence submitted, including in response to the request for evidence (RFE), and sufficiently analyzed the overall record under the applicable preponderance of the evidence standard to conclude that the Petitioner is not well-positioned to advance his proposed endeavor.

Here, the record shows that the Petitioner earned a master's degree in robotics from the [redacted] in 2021 and a software certification, but he does not have a doctor of philosophy (Ph.D.) degree. On appeal, the Petitioner points out that education is merely one factor among many that may contribute to a finding that the Petitioner is well-positioned. However, while we look at a variety of factors in determining whether a petitioner is well positioned to advance his proposed endeavor, USCIS considers a Ph.D. degree, an especially positive factor to be considered along with other evidence. *See 6 USCIS Policy Manual* F.5(D)(3). Notably, in *Matter of Dhanasar*, the record established that the petitioner held multiple graduate degrees including "two master of science degrees, in mechanical engineering and applied physics, as well as a Ph.D. in engineering." *Matter of Dhanasar*, 26 I&N Dec. at 891.

The next factors applicable to the second prong of the *Dhanasar* framework are a model or plan for future activities and any progress towards achieving the proposed endeavor. *Id.* at 890. The Petitioner explained that his current employment serves as the critical foundation for executing his structured plan to modernize U.S. manufacturing by deploying Industry 4.0 technologies into manufacturing environments. He also asserted that through his current role as a controls engineer, he has begun implementing key components of his strategic plan in active industrial settings, moving the endeavor from concept to execution.

In support, the Petitioner submitted two testimonial letters from his employer. Specifically, T-B- discusses the Petitioner's next phase of work which includes building upon his current responsibilities by furthering the adoption of advanced Industry 4.0 technologies in U.S. manufacturing systems. T-B- further states that the Petitioner's work will support federal initiatives, create jobs, and improve workplace and public safety. Further, D-F- asserts that the Petitioner's work extends beyond the company because the "systems he helps develop are implemented in facilities that serve as critical nodes in national supply chains – automotive, aerospace, medical, food and beverage, and beyond." D-F- also explains that the Petitioner is already helping companies such as [redacted] and [redacted] "to make the leap into digital manufacturing." However, D-F- does not offer corroborating evidence or specific examples to support his claims. Moreover, none of the authors offer specific examples of how the Petitioner's work has affected the field, or otherwise shows success or progress at a level that renders him well positioned to advance his proposed endeavor. As previously noted, the USCIS Policy Manual identifies evidence of whether the person's work has influenced the field of endeavor as relevant evidence that may demonstrate a petitioner is well-positioned to advance his proposed endeavor. *See 6 USCIS Policy Manual* F.5(D)(3) (providing, as guidance, many examples of evidence that may demonstrate a person is well-positioned to advance their proposed endeavor).

In response to USCIS' RFE, the Petitioner submitted two additional testimonial letters from colleagues, which discussed his past projects. For instance, K-F- of [redacted] discusses the Petitioner's implementation of "Unified Namespace" and states that the Petitioner designed a data model that was "clean, logical, and adaptable," and allowed the company's plant to maintain stable operations while integrating cloud-based analytics, standardized reporting, and improved traceability. The letter from T-H- of [redacted] explains that the Petitioner developed structured and maintainable control logic that was "easy to interpret" and that it was a notable improvement over the company's legacy system. T-H- also explained that the Petitioner implemented diagnostics that improved the company's ability to understand system behavior and identify deviations before they escalated. However, the authors of these letters do not provide sufficient detail explaining the significance of the Petitioner's past work beyond their employers, or how it has affected the field or industry to demonstrate a history of accomplishment and success and progress towards achieving his proposed endeavor.

Finally, we conclude that the record does not sufficiently establish the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* On appeal, the Petitioner contends that USCIS incorrectly required evidence not listed in the USCIS Policy Manual and conflated certain eligibility requirements with the criteria of a different visa category. While USCIS Policy Manual does not list authorship of peer-reviewed publications, white papers, conference presentations, or invited talks as evidence relevant to demonstrating the Petitioner is well-positioned to advance the proposed endeavor, in *Matter of Dhanasar*, we favorably considered the significance of his research which had been corroborated by evidence as having peer and government interest, as well as consistent funding from government agencies of his research projects. *Matter of Dhanasar*, 26 I&N Dec. at 893. Here, the Petitioner has not established interest in his manufacturing work beyond his employer.

The Petitioner also contends on appeal that his employer is interested in his endeavor. However, we are not persuaded that the Petitioner's employment with [redacted] sufficiently establishes interest from relevant entities in the Petitioner pursuing his proposed endeavor. In *Matter of Dhanasar*, we found that the petitioner demonstrated interest from relevant entities where the record showed that he had received "consistent" government funding of research projects in which he played a "significant" role, specifically that he initiated or was the primary award contact on several funded grant proposals and was the only listed researcher on many of the grants. *Id.* at 893, Fn. 11. While we recognize that the Petitioner is not a researcher seeking grant funding, we conclude that the fact that the Petitioner has obtained employment to provide services as a controls engineer is not reflective of a similar level of interest to that demonstrated in *Matter of Dhanasar*.

Not every individual who is employed in their field and who has relevant skills and knowledge will be found to be well-positioned to advance their proposed endeavor. Rather, we agree with the Petitioner on appeal that we must examine the factors set forth in *Matter of Dhanasar* to determine whether, for instance, the individual's education, skills, and record of success, their model or plan for future activities, their progress towards achieving the proposed endeavor, and the generation of interest among relevant parties supports such a finding. *Matter of Dhanasar*, 26 I&N Dec. at 890. While we acknowledge that the Petitioner has a master's degree in robotics, he has not established that he has a Ph.D., which, as previously noted, is an especially positive factor to be considered along with other evidence. Moreover, the record shows that he's a relatively young professional with limited experience in the manufacturing industry. Further, as the record does not contain sufficient evidence

establishing the Petitioner's record of success in related or similar efforts, his progress toward achieving the endeavor, or interest from potential investors or other relevant entities. In *Matter of Dhanasar*, we found "[t]he petitioner's education, expertise, and experience in his field, the significance of his role in research projects, as well as the sustained interest of and funding from government entities. . ., position him well to continue to advance his proposed endeavor of hypersonic technology research." *Id.* at 893. Here, however, in considering the record in totality, we conclude that the Petitioner has not established that he is well-positioned to advance the proposed endeavor.

Because the documentation in the record does not establish that the Petitioner is well-positioned to advance the proposed endeavor as required by the second prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion regarding his eligibility under either the first or the third *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

The Petitioner has not met the requisite second prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established he 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.