U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36817827

Date: MAR. 6, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a multinational healthcare manufacturing organization, seeks second preference immigrant classification (EB-2) for the Beneficiary, a financial manager, as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i).

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner did not demonstrate that the Beneficiary merits a discretionary waiver of the job offer requirement in the national interest. The matter is now before us on appeal. 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 establish eligibility for a national interest waiver, a beneficiary must first qualify for the underlying EB-2 visa classification as either 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 demonstrates the beneficiary's eligibility for the underlying EB-2 classification, they must then establish that the beneficiary merits a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that

USCIS may, as matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

- The beneficiary's proposed endeavor has both substantial merit and national importance;
- The beneficiary is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

See Dhanasar, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

II. ANALYSIS

The Director determined that the Beneficiary qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The Petitioner initially stated that the Beneficiary would continue his work implementing Enterprise Resource Planning (ERP) software for financial management purposes at one of the [redacted] U.S. facilities, [redacted]—one of dozens operated by the company throughout the world. The Petitioner provided the following summary of the Beneficiary's proposed endeavor:

> [The Beneficiary] is an expert in implementing financial management and accounting software into business operations, whose ability to increase the accuracy and usefulness of financial reporting will benefit the U.S. by advancing the nation's scientific knowledge of advanced enterprise resource planning software and business intelligence reporting, which allows companies to optimize their operations, make important business decisions, and protect the security of their financial processes. As Sr. Accountant at [redacted] a leading manufacturer of pharmaceutical products, [the Beneficiary's] role involves technology, finance, and mathematics, which are quintessential elements of employment in the STEM [science, technology, engineering, and mathematics] field. He will perform critical financial management and accounting duties at [redacted] that will have a significant impact on increasing operational efficiency at pharmaceutical manufacturers and improving system security.

The Director determined that the Petitioner demonstrated the Beneficiary's proposed endeavor has substantial merit; the Director further concluded, however, that the Petitioner did not establish that the endeavor is of national importance. Upon review, for the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of the Beneficiary's endeavor in order to establish his eligibility under the first prong of the *Dhanasar* analytical framework.

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. In determining

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

whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

In determining national importance, 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 foreign national proposes to undertake." *Id.* In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[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. Further, to evaluate whether the Beneficiary's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. *Id.* at 889.

The Petitioner has provided letters of support from executive leadership and colleagues at the Petitioner's company discussing the Beneficiary's knowledge of the company and his contributions to its financial management goals; however, these letters do not provide specific information concerning how his proposed endeavor to continue his work at the [redacted] location will, as stated generally above, "[allow] companies to optimize their operations, make important business decisions, and protect the security of their financial processes." Although the letters of support laude the Beneficiary's qualifications and experience, they do not illuminate how the Beneficiary's proposed endeavor would be of national importance to the United States. We note that evidence of work experience generally relates not to the national importance of an endeavor, as discussed in the first prong of *Matter of Dhanasar*, but to the second prong,[2] which evaluates whether an individual is well positioned to advance an endeavor.

The Petitioner also has provided reports and articles discussing the pharmaceutical manufacturing industry, as well as the importance and potential applications of ERP within a variety of business sectors. The Petitioner included documentation outlining government initiatives concerning domestic vaccine development capabilities, U.S. competitiveness, and STEM talent. Although the Petitioner asserts that the Beneficiary's endeavor will further certain objectives described in this documentation, the material itself does not provide sufficient insight into how the Beneficiary's specific intent to continue work at one of the company's locations in the United States will, for example, "benefit the U.S. by advancing the nation's scientific knowledge of advanced enterprise resource planning software and business intelligence reporting." While this documentation relates to the area in which the Beneficiary intends to work, it does not speak to how specific work conducted by the Beneficiary would have a potential prospective impact of national importance.

Regarding the material relating to STEM, which the Petitioner submits as evidence to support the national importance of the proposed endeavor, USCIS Policy Manual guidance provides that an endeavor rooted in STEM may have national importance when the evidence sufficiently demonstrates that it would help the United States to remain ahead of strategic competitors or current and potential

[2] Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* framework, determinations concerning the second and third prongs are unnecessary to the ultimate decision; therefore, they will be reserved in this decision.

adversaries.[3] We may also determine that an endeavor in a STEM field has national importance when it relates to a field where appropriate activity and investment may contribute to the United States achieving or maintaining technology leadership or peer status among allies and partners. Here, the Petitioner has not explained how the proposed endeavor would position the United States ahead of other nations or achieve or retain technology leadership or peer status with other countries. While the Petitioner emphasizes the Beneficiary's knowledge and experience using ERP software, it has not described any technology the Beneficiary has developed that would potentially be advantageous for the United States. Further, although the Petitioner links the proposed endeavor's national importance to an asserted shortage of STEM talent, we observe that shortages in a field are not alone sufficient to demonstrate that the Beneficiary's endeavor stands to have an impact on the broader field or otherwise have implications rising to the level of national importance.

On appeal, the Petitioner states that the evidence of record establishes the Beneficiary's eligibility for a national interest waiver, including the national importance of his proposed endeavor to continue in his role at the company utilizing ERP software, asserting that "companies in the U.S. pharmaceutical industry will need to adopt advanced enterprise resource planning systems, in which the Beneficiary is an expert, in order to increase revenues and outperform foreign competitors." These and similar assertions made by the Petitioner found in the record do not explain how the Beneficiary's individual work at [redacted] will impact the adoption or usage of ERP software by other pharmaceutical companies or how any positive outcomes in the pharmaceutical industry would result from the Beneficiary's work. Instead, the Petitioner's assertions rely on the concept of the national importance of the availability and reliability of efficient domestic pharmaceutical manufacturing, and they repeatedly imply that the Beneficiary's continued work using ERP software to manage the company's finances at its [redacted] location will generally benefit the pharmaceutical industry.

For example, following an explanation of how the Beneficiary specializes in ERP systems, which the company has implemented not only at their [redacted] location, but within "the business operations of their facilities across the globe," the Petitioner ties the Beneficiary's endeavor to continue his work at the [redacted] location to general national interests, stating, "Moreover, by improving the overall operations and manufacturing capacity of U.S. pharmaceutical companies, the United States will lessen its dependence on foreign manufacturers for critical drug ingredients and medicines." Here, again, the Petitioner has not provided an explanation or any probative evidence to demonstrate how the Beneficiary's work with the company would impact a field or industry on a national level. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner has not done so here.

Further, the Petitioner did not specifically describe how the Beneficiary would undertake an endeavor of a scale that would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Beyond assertions that the Beneficiary's work has and will continue to benefit the company financially, the Petitioner has not provided evidence of any resulting positive impact to the U.S. economy; the Petitioner does not demonstrate that the Beneficiary's proposed endeavor would extend beyond its own business interests to impact the field or any other industries or the U.S. economy more broadly at a level commensurate with national importance.

[3] *See* 6 USCIS Policy Manual F.5(D)(2).

Beyond general assertions, the Petitioner has not demonstrated that the Beneficiary's endeavor stands to have an impact on the broader field or otherwise have implications rising to the level of national importance. The Petitioner here has not properly documented how the Beneficiary's continued work at the company would impact the field of pharmaceutical manufacturing more broadly. In addition, the possible importance of addressing a perceived shortage of STEM talent in a particular field does not confer national importance on the Beneficiary's proposed endeavor to work in a STEM field. Again, in determining national importance within the *Dhanasar* framework, the relevant question is not the importance of the field, industry, or profession in which the individual will work, but the specific endeavor that the individual will undertake. *Id.* at 889.

Because the Petitioner has not established the Beneficiary's proposed endeavor is of national importance as required by the first prong of the *Dhanasar* precedent decision, the Beneficiary is not eligible for a national interest waiver. As the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding eligibility under the second and third *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We conclude that the Petitioner has not established that the Beneficiary is eligible for or otherwise merits a national interest waiver. The petition will remain denied.

ORDER: The appeal is dismissed.