U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36836562

Date: MAR. 13, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an oil and gas 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).

The Director of the Texas Service Center denied the petition, concluding the record did not establish that a waiver of the required job offer, and thus of a 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;
- The individual is well-positioned to advance their proposed endeavor; and

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner is a petroleum engineer and fluids advisor who is currently employed with [redacted] In this role, the Petitioner asserts he "play[s] a crucial role in the U.S. energy sector, ensuring efficient extraction and management of oil and gas resource[s]," through responsibilities, including: "evaluating geological data, designing drilling operations, and optimizing production rates, all while prioritizing safety and environmental considerations."

The Director denied the petition, concluding the record did not establish the national importance of the proposed endeavor or that, on balance, it would be beneficial for the United States to waive the requirements of a job offer and thus a labor certification.

A. Substantial Merit and National Importance

The first prong, 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 *Dhanasar*, we 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.

The Petitioner asserts his endeavor, continuation of his work as a fluids advisor for [redacted] has national importance because his "work is integral to meeting energy demands and sustaining economic growth," and national security through the energy-efficient reduction of "dependency on foreign energy sources." The Petitioner contends his work aligns national priorities as he possesses a STEM degree in petroleum engineering and his work in energy efficiency qualifies as a critical and emerging technology. In support, the Petitioner highlights his past work for [redacted], including creating "a gravel pack filtration screen that optimized the existing [redacted] filtration system," saving "the company more than $100k per well, during the life of the well;" a system that "implemented a plan to create a liquid mud plant;" and "a new drilling fluid solution" that utilized sodium chloride salt rather than "the low inventory of [p]otassium [c]hloride [s]alt." Before the Director, the Petitioner submitted letters of recommendation corroborating these claims and attesting to the expertise and significant cost-savings he has provided his employer.

We recognize the value of energy efficiency, economic growth, sustainability, and national security, in addition to emerging technologies in these fields. However, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. The relevant question is not the importance of the field, industry, or profession in which the Petitioner may work; instead, we

focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. Here, the Petitioner has detailed several of his prior work accomplishments but his future aspirations under this endeavor, "innovation, sustainability, leadership, mentorship," are less defined. In addition, the results of these prior accomplishments were realized through his work for [redacted] and resulted in "approximately $7 million in savings on equipment, operations, and labor costs," and "conserve[ing] over $1 million per well and expedited well completion times" for his employer. The Petitioner contends [redacted] "as one of the largest and most influential energy companies in the world" would implement the Petitioner's enhancements in a widespread fashion, which would "not only improve the efficiency and sustainability of [redacted] projects but also set industry standard that other companies are likely to follow." Similarly, the Petitioner claims [redacted] could share these enhancements "across the industry through partnerships, academic collaborations, and public sector initiatives." However, the record does not detail the extent and way [redacted] innovations would be shared outside of the company. And there is no assertion from [redacted] including in the submissions from its other employees, that it would support public dissemination of internal work product and proprietary information. Overall, the Petitioner has not sufficiently demonstrated his endeavor will extend beyond his employer's interests in a manner that has national or global impact in these fields, or broader implications arising from the endeavor at a level commensurate with national importance.

The Petitioner asserts on appeal that his endeavor could lead to the potential creation of jobs, as the "cost savings" from his enhancements could "increase the capital available for hiring additional workers." Similarly, the Petitioner asserts that advancements in his field make "oil and gas operations more sustainable and efficient, which in turn stimulates job growth." As such, the Petitioner contends his work ultimately "supports the industry's sustainability, growth and efficiency, while fostering economic growth and job creation." However, while the Petitioner's proposed endeavor may stimulate economic activity to some level, it is also the Petitioner's burden to demonstrate the economic effects of his proposed endeavor will be substantial and at a level commensurate with national importance. Here, the Petitioner has not sufficiently demonstrated the proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects beyond his employer, such that it would have broader implications for the United States.

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional 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"); *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

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.