U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37243790

Date: MARCH 17, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, an 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. 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 petition, concluding that the Petitioner did not demonstrate that he merits a discretionary waiver of the job offer requirement 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 Director determined that while the Petitioner established that his proposed endeavor has substantial merit, he did not establish that his proposed endeavor is of national importance, that he is well-positioned to advance his proposed endeavor, or that waiving the job offer requirement would benefit the United States.

The first prong of the *Dhanasar* analytical 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.*

The Petitioner asserts that his proposed endeavor "is to develop cutting-edge solutions to improve cloud computing and data architecture development for big data analysis . . . by optimizing data collection, data pipeline, and campaign analysis, while also prioritizing data security and fraud prevention" and "develop and maintain advanced monitoring, alerting, and self-healing capabilities to maintain high reliability and uptime for critical systems, while proactively detecting and mitigating fraudulent activities." He states that he is "carrying out [his] endeavor through my employment at [redacted]" and claims that "around 95% of Americans shop at [redacted], meaning I am playing a lead role in protecting data pertaining to nearly all Americans." He contends that because he "will be actively developing novel-cloud-computing software, which will be primarily implemented for the world's largest retailer, [redacted]" his research and endeavor "will have positive impacts on the U.S. economy by continuing to advance development in the crucial and highly competitive retail sector, which plays a key role in in supporting widespread innovation throughout the United States." Noting that [redacted] has over 130,000 third-party sellers, the majority of which are small businesses who advertise on [redacted] platforms, he contends that his endeavor helps support small businesses because "businesses will be able to use the cloud generate to business related insights faster than before because the cloud will be able to process a much larger amount of data," which will allow them to allocate their budgets better, and significantly grow their business.

On appeal, the Petitioner asserts that the Director erred by misstating the scope of his endeavor's impact; misconstruing his role as a single computer systems engineer rather than lead essential figure for [redacted] projects that are necessary to the success of thousands of small businesses who advertise on [redacted] platform; concluding that his endeavor does not advance STEM technologies or directly aligns with U.S. government priorities; and overlooking evidence demonstrating the economic impact of his endeavor including job creation.

The Petitioner relies primarily on the importance and positive economic effects of advanced technologies like data analytics and cloud computing to the U.S. economy, particularly for small businesses, as well as the alignment of these technologies with areas listed in the Critical and Emerging Technologies (CETs), a subset of advanced technologies that are potentially significant to U.S.

national security. We first note here that the Petitioner's experience and abilities in his field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. 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.* at 889. A petitioner may present a proposed endeavor that focuses on an area with significant merit but still fall short of demonstrating that their specific endeavor has a potential prospective impact in that area that is commensurate with national importance. We recognize the value of advanced technologies and the positive economic effects of advanced technologies to the U.S. economy; however, being employed at a multinational retail company, as a computer systems engineer/architect and project lead whose work involves advanced technologies, is insufficient to establish the national importance of the Petitioner's proposed endeavor. Despite the size of the Petitioner's employer and its global reach, the Petitioner must demonstrate his own tasks rise to the level of nationally important endeavor. While the Petitioner's endeavor may assist small businesses that advertise on [redacted] platforms in growing their businesses, the Petitioner has not established that his endeavor alone, implemented for [redacted] and used by [redacted] third-party sellers has national implications within an advanced technology field.

Further, while the Petitioner contends that he "provides critical support to [redacted] which is an economic driver in the United States due to its employment numbers" and customer base, the Petitioner has not demonstrated any specific economic impact attributable to his particular role as a computer systems engineer/architect and project lead. Similarly, while the Petitioner claims that his endeavor will have "positive impacts on the U.S. economy by continuing to advance development in the crucial and highly competitive retail sector," the economic benefits that the Petitioner claims will result from his endeavor depend on numerous factors and the Petitioner does not offer a sufficiently direct evidentiary tie between his proposed endeavor and the claimed results and the evidence does not show that his proposed work stands to offer economic benefits beyond his employers and its third-party sellers. Additionally, the Petitioner has not shown that his endeavor has significant potential to employ U.S. workers, aside from [redacted] existing workforce. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to the Petitioner's specific work, the Petitioner has not shown that the benefits to the U.S. regional or national economy resulting from his endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third prongs. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); *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.