U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37241957

Date: MAR. 17, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification for the Beneficiary 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 EB-2 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 petition, concluding that the Beneficiary qualified for classification as a member of the professions holding an advanced degree, but that the Petitioner had not established that a waiver of the required job offer, and thus a labor certification, would be in the national interest. On appeal, the Petitioner submits a brief and asserts that a waiver of the requirement of a job offer would be in the national interest.

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 the beneficiary is 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 the beneficiary's eligibility for the underlying EB-2 classification, they must then demonstrate 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. *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;

[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).

- 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 Director found that the Beneficiary qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of the Beneficiary's proposed endeavor under the first prong of the *Dhanasar* analytical framework.

The Petitioner "designs, builds, and sells trucks, crossovers, cars, and automobile parts and provides software-enabled services and subscriptions worldwide." The Beneficiary currently works for the Petitioner as an "Interior HVAC Comfort CAE Engineer" and his proposed endeavor will be to continue "advancing automotive electrification by leveraging fluid and thermal sciences to develop energy efficient HVAC systems for electric vehicles."

The first *Dhanasar* 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.* The Director determined that the proposed endeavor has substantial merit, and that determination will not be disturbed on appeal.

In concluding that the Petitioner did not establish the proposed endeavor is of national importance, the Director determined that the record did not establish the position would sufficiently extend beyond the Petitioner and its operations to impact the field or industry more broadly. Furthermore, the Director stated that simply working in an important field does not establish that a related proposed endeavor is important. The Director also explained that the record did not support a determination that "any indirect benefits to the U.S. regional or national economy resulting from the [B]eneficiary's proposed endeavor would reach the level of 'substantial positive economic effects' contemplated by *Dhanasar*."

On appeal, the Petitioner asserts that the Beneficiary's proposed endeavor will have national implications within the fields of electric vehicles, battery efficiency, and advanced computing. Further, the Petitioner maintains that the Beneficiary's proposed endeavor will impact the ability of the U.S. to remain globally economically competitive in the automotive markets, that it will enhance societal welfare specific to carbon emission reduction and U.S. public safety, and that it impacts a matter that a government entity has described as having national importance or is the subject of national initiatives, in the form of renewable energy sources, next-generation battery cell technology, and overall battery safety and performance.

In support, on appeal the Petitioner highlights a letter in the record written by the Beneficiary's direct manager which discusses the Beneficiary's "critical work" in "advancing automatic electrification by leveraging fluid and thermal sciences to develop energy efficient HVAC systems for electric vehicles." While we acknowledge the Beneficiary appears to play a critical engineering role for the Petitioner and its operations, the letter does not sufficiently detail how the Beneficiary's work would have a broader impact within the industry as a whole. As another example, one letter states, in part, that the Beneficiary is responsible for the "virtual cabin comfort across multiple vehicle programs with a focus on electric vehicles." The letter explains the Beneficiary's duties for the Petitioner and his role as a "leading contributor to his area of expertise," but without a more comprehensive understanding of how the Beneficiary's work would contribute to the industry's viability or growth, it is unclear how the proposed endeavor would reach the level of "substantial positive economic effects" or national importance as contemplated by *Dhanasar*. *Matter of Dhanasar*, 26 I&N Dec. at 890.

In addition, the letters in the record focus on the Petitioner's experience, expertise, and knowledge in the field. While we acknowledge the Beneficiary's experience and expertise as discussed in the record, this does not establish the national importance of his work as it does not speak to the prospective impact of the proposed endeavor. While past experience can be persuasive for prong two analysis, whether the Beneficiary is well-positioned to advance the proposed endeavor, it does not sufficiently establish a claim of national importance. *Matter of Dhanasar*, 26 I&N Dec. at 890.

The Petitioner also provided an "Analysis and Advisory Evaluation" letter from Dr. H-D-, Associate Professor at the [redacted] School of Engineering and Technology, in support of the Beneficiary's national interest waiver. Dr. H-D- contends that the Beneficiary's proposed work is of national importance because his generic occupation of automotive engineer and the industry in which he works stand to benefit the U.S. economy. The issue here, however, is not the national importance of the profession or industry 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. The letters in the record do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Beneficiary's specific proposed work offers broader implications in his field or industry or substantial positive economic effects for our nation that rise to the level of national importance.

Furthermore, the Petitioner submitted articles on the importance of electrification engineering, automotive engineering, automated safety technologies, software-defined vehicles, the automotive industry, battery engineers, the Petitioner's U.S. economic impact, clean vehicles, and EVs. The record also includes information about U.S. critical infrastructure sectors, critical and emerging technologies, the Bipartisan Infrastructure Law, and protecting the U.S. automotive industry. The Petitioner claims that these articles support the national importance of the Beneficiary's proposed endeavor. The determination of national importance does not focus on the importance of one's field or industry in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. Here, none of the articles mention the Beneficiary or his assigned projects or otherwise speak to the potential prospective impact of his specific proposed endeavor.

Although we acknowledge that the Beneficiary's role as an engineer and his assigned projects are important to the Petitioner and its operations, the issue here is not the broader implications of the

Petitioner's operations, but rather the potential prospective impact of the Beneficiary's specific proposed endeavor as an engineer within their company. The record focuses on the impact the Petitioner has on the automotive engineering and electrification industries but does not establish an impact directly attributable to the Beneficiary or his specific proposed endeavor. The evidence does not sufficiently demonstrate how the Beneficiary as a single employee would affect the industry more broadly.

Additionally, the Petitioner has not shown that the specific endeavor the Beneficiary proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. While the Petitioner asserts that the national importance of the Beneficiary's endeavor is evident from the scope of its vehicle manufacturing operations, it has not demonstrated that the economic implications of its vehicle sales and operations would be attributable to the Petitioner's specific projects to an extent that his proposed work holds national importance. Here, the Petitioner has not shown the wider economic effects it claims are implications of the Beneficiary's specific proposed endeavor of "advancing automotive electrification by leveraging fluid and thermal sciences to develop energy efficient HVAC systems for electric vehicles." Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to the Beneficiary's specific proposed work, the Petitioner has not shown that the benefits to the U.S. regional or national economy resulting from his projects would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Matter of Dhanasar,* 26 I&N Dec. at 890.

In *Dhanasar,* we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, we agree with the Director that the Petitioner did not sufficiently demonstrate how the Beneficiary's proposed endeavor stands to extend beyond his employer to impact the industry more broadly at a level commensurate with national importance. Nor has the Petitioner shown that the Beneficiary's particular work offers original innovations that contribute to advancements in the industry or otherwise has broader implications for the field. Accordingly, without sufficient documentary evidence of their broader impact, the Beneficiary's proposed work does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. The Petitioner has not established on appeal that the Beneficiary's proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field or industry, or has other broader implications indicating national importance.

Because the documentation in the record does not establish the national importance of the Beneficiary's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated the Beneficiary's eligibility for a national interest waiver. As this issue is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of the Beneficiary's eligibility under the second and third prongs of the *Dhanasar* framework. *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).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, and therefore we conclude that they have not established that the Beneficiary is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.