U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37049800

Date: MAR. 20, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, an automotive parts manufacturing company, seeks employment-based second preference (EB-2) immigrant classification on behalf of the Beneficiary, 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 Nebraska Service Center denied the petition, concluding that although the Beneficiary is an advanced degree professional, the Petitioner did not establish that a waiver of the required job offer, and thus of the 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate the beneficiary's qualification 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)(B)(i) of the Act. Once a petitioner demonstrates the beneficiary's eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." *Id.*

Matter of Dhanasar, 26 I&N Dec. 884 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as a 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. at 889.

II. ANALYSIS

The Director denied the petition, concluding that although the Beneficiary is eligible for EB-2 classification as an advanced degree professional, the Petitioner did not establish that a waiver of the job offer, and labor certification requirement, is in the national interest because they did not establish eligibility under the first or third *Dhanasar* prongs. On appeal, the Petitioner contests the Director's determination and asserts eligibility under all three *Dhanasar* prongs.

Upon de novo review, we agree with the Director's determination that the Beneficiary qualifies for classification as a member of the professions holding an advanced degree. As such, the only remaining issue is whether the Petitioner has established eligibility for a discretionary waiver of the job offer requirement under the *Dhanasar* framework.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake and its "potential prospective impact." *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer. *Id.*

The Petitioner is an industry leader in the design and manufacture of "highly efficient propulsion and energy management solutions that power vehicles and machines in all mobility markets across the globe." The Petitioner purports to shape sustainable progress through its conventional and clean-energy solutions that support "nearly every vehicle manufacturer with drive and motion systems, electrodynamic technologies, including software and controls."

The proposed endeavor is for the Beneficiary to work for the Petitioner in the position of software verification and validation (V&V) engineer. In this position, the Beneficiary will "contribute advanced technical skills in electrical engineering and software engineering to the automotive industry." The Beneficiary currently works at the Petitioner in this position, and his endeavor will be to continue to use his skills to generate the quality assurance and validation of "cutting-edge software related to [the Petitioner's] distinctive [electronic control unit (ECU)] and related subsystems," which it is asserted are critical aspects to the continued and increased production of electric vehicles (EVs). According to the Petitioner, the Beneficiary's "highly sophisticated skills will have a direct impact on automotive industry advancement and EV production." The Petitioner highlights that the Beneficiary will develop a charger and simulator technology and that he tests software and validates technology such as EV charge controllers and transmission controllers and components that impact the functional

safety of vehicles. The Director concluded the proposed endeavor is of substantial merit based on the *Dhanasar* framework. We agree.

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 to impact the field or industry more broadly. Furthermore, the Director stated that simply working in an important field, such as the automotive industry, does not establish that a related proposed endeavor is important. The Director also explained that because the proposed endeavor does not have significant potential to employ U.S. workers or offer other substantial positive economic effects for our nation, or have a broader impact on the field, it is not of national importance. Moreover, the Director noted that even if the Beneficiary's endeavor leads to a positive impact on "prospective clients," that does not signify that it will have a broader impact on the field outside of the Petitioner's prospective clients and explained that "[b]enefits that are isolated to a single institution or locality in the United States might be so attenuated at the national level as to preclude a finding that the proposed endeavor has national importance."

On appeal, the Petitioner asserts that the Director did not properly weigh or consider evidence of the "anticipated proximate benefits of pursuing his endeavor through his employment" or weigh the "anticipated benefits of the proposed endeavor." As it relates to prong one of the national interest waiver, the Petitioner asserts the Beneficiary's job duties are nationally important because if a product or technology sufficiently permeates an industry or sector or represents a significant portion of the United States market share, that technology necessarily impacts the field and the nation, sufficient to be considered of national importance under the *Dhanasar* framework. Moreover, because the Beneficiary supports the Petitioner's objectives in manufacturing automotive parts for EVs and other vehicles, the Petitioner asserts the proposed endeavor is nationally important because the impact will be to preserve the Unites States' leading position in EV technology and the endeavor aligns with government priorities aimed at prioritizing EV acceleration.

In addition to the endeavor's asserted alignment with government priorities, the Petitioner highlights the Beneficiary's work creating checklists and guidance to "correctly and efficiently implement the various work products associated with SWE4, SWE5, SWE6, software testing specific sections of ASPICE, [which is] an industry standard for evaluating software development processes." The Petitioner states that the Beneficiary's duties support and guide software development which improves the overall quality of the software and that he creates documents outlining best practices for performing statistical analysis to ensure vehicle safety, passenger safety, and validation and testing efforts. The Petitioner also highlights a letter from a senior director attesting to the national importance of the Beneficiary's proposed endeavor.

Preponderance of the evidence means that the Petitioner must show that what is claimed is "more likely than not" or "probably" true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* Upon de novo review of the record, for the following reasons, we agree with the Director that the Petitioner has not established national importance as contemplated under the *Dhanasar* framework by a preponderance of the evidence.

Matter of Dhanasar held that in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. We therefore "look for broader implications" of the proposed endeavor, noting that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* As such, the issue here is not whether software development in the automotive industry, as a whole, is nationally important. Rather, the Petitioner must demonstrate the national importance of the specific, proposed endeavor of the Beneficiary's work as a software V&V engineer.

For example, *Matter of Dhanasar* highlighted that while the field of STEM education may be of national importance, the duties of a STEM teacher in a classroom would not necessarily be of national importance because the impact that would flow from the teacher's activities would not sufficiently extend beyond the students sitting in their classroom. *Id.* at 893 (stating "[w]hile STEM teaching has substantial merit in relation to U.S. educational interests, the record does not indicate by a preponderance of the evidence that the petitioner would be engaged in activities that would impact the field of STEM education more broadly.") Thus, even when a beneficiary works in an important industry or for a petitioner that has a substantial market share in a specific industry, the proposed endeavor will not necessarily be considered of national importance under *Dhanasar*.

On appeal, the Petitioner asserts that their e-products (including e-propulsion systems, e-motion systems, e-powertrain, e-axil for hybrid cars, e-drive units, e-hub drives, e-gear boxes, and e-motion systems) and especially their charge controller technologies, are material to their leading presence in the automotive industry and that as a result, the Beneficiary's work affects the whole industry. However, the record does not sufficiently establish that the Beneficiary's duties as a software V&V engineer would impact the automative and EV car industry more broadly, at a level commensurate with national importance. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

The letter provided from a senior director within the Petitioner asserts that the proposed endeavor is of national importance by explaining how the Petitioner's products and industry impact the economy. The letter emphasizes that the Petitioner generated $182 million in EV-related sales in 2023, a number that is expected to grow to around $245 million in 2024. The letter also explains that the Beneficiary's "ability to develop simulation with high fidelity and his technical understanding of the automotive processes makes [his] role critical" because he ensures the software developed is evaluated against industry standards and the product is "issue-free." Furthermore, the letter emphasizes the Beneficiary's leading role in ensuring customer safety and adherence to industry standards by developing a charge controller and transmission controller, which according to the writer, is "critical" to EV car's high voltage charging systems. We acknowledge the Beneficiary appears to play a critical safety compliance role for the Petitioner; however, the letter does not sufficiently detail how the Beneficiary's work would have a broader impact on EV sales or safety standards within the automotive industry as a whole. *Matter of Chawathe*, 25 I&N Dec. at 375-76. Furthermore, the letter states that the Beneficiary has contributed to the Petitioner's "overall technical growth by applying his knowledge and skills to key products and software development processes," which, as the Director explained, is insufficient to establish national importance because it does not explain the endeavor's broader impact on the national economy or automotive industry, more broadly. *Id.* In sum, without a more comprehensive understanding of how the Beneficiary's work would contribute to the industry's

viability or growth or enhance safety standards across the industry, 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 Petitioner did not demonstrate how the Beneficiary's position as a software V&V engineer would have significant potential to employ U.S. workers. *Id.* The Petitioner asserts that its standing within the automotive industry and its market share establish the proposed endeavor's national importance. However, as explained above, these factors are insufficient to establish national importance, and the Petitioner did not sufficiently explain or demonstrate how the Beneficiary's employment alone would have any projected economic impact or create jobs across the industry. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

The Petitioner asserts that the proposed endeavor is of national importance because it aligns with government initiatives promoting EV development in the automotive industry. However, the Petitioner has not established how such alignment is of national importance under the *Dhanasar* framework. Because the proposed endeavor is science, engineering, technology, and math (STEM) based, we evaluated the proposed endeavor under our STEM guidance, which recognizes the importance of progress in STEM fields and the essential role of individuals "with advanced STEM degrees in fostering this progress, especially in focused critical and emerging technologies or other STEM areas important to U.S. competitiveness or national security." 6 *USCIS Policy Manual* F.5(D)(2). Our guidance states that many "proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings... have sufficiently broad potential implications to demonstrate national importance." *Id.* Here, the Petitioner has not established how the Beneficiary's proposed endeavor would advance STEM technologies in the EV industry more broadly, consistent with national importance. *Matter of Chawathe*, 25 I&N Dec. at 376.

Finally, the Petitioner asserts that the Beneficiary's work would have a broader societal impact by contributing to product development and safety in the EV automotive space. However, the Petitioner did not sufficiently explain how the proposed endeavor would extend beyond the Petitioner's products or lead to other substantial economic benefits, consistent with the national importance standard in *Dhanasar*. *Matter of Dhanasar*, 26 I&N Dec. at 889. Furthermore, the Petitioner has not demonstrated that the scope of the Beneficiary's proposed work would "broadly enhance societal welfare . . . or contribute to the advancement of a valuable technology" at nationally important levels. 6 *USCIS Policy Manual* F.5(D)(1). In short, the Petitioner has not demonstrated how ensuring compliance with existing safety regulations will create new advancements that significantly impact the automotive safety industry more broadly. *Id.*

Because a petitioner must establish that they meet all three prongs of the *Dhanasar* framework to obtain a national interest waiver, if even one of the prongs is not established, a petitioner is ineligible for this waiver. Because the Petitioner has not established eligibility under the first *Dhanasar* prong, we decline to reach and hereby reserve the Petitioner's arguments regarding the third *Dhanasar* prong. *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, they have not established that a discretionary waiver of the job offer is in the national interest.

ORDER: The appeal is dismissed.