U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37323788

Date: MAR. 21, 2025

Appeal of Texas 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 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, and 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
- On balance, waiving the job offer requirement would benefit the United States.

Id.

[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 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.*

II. ANALYSIS

The Petitioner intends to work in the field of cybersecurity management. The Director found the Petitioner qualified for the underlying EB-2 classification. However, the Director determined that the Petitioner had not met the *Dhanasar* requirements for a waiver of a job offer and labor certification from a U.S. employer. Specifically, the Director concluded that the proposed endeavor had substantial merit, but the Petitioner had not established the national importance of the endeavor under prong one. The Director concluded that the Petitioner established he was well-positioned to advance the proposed endeavor under prong two, but that he had not shown that a waiver of the job offer requirement would be beneficial as required by prong three. Upon de novo review, we agree the Petitioner has not established the national importance of the endeavor, as required under the first prong of *Dhanasar*.

On appeal, the Petitioner argues that the Director failed to recognize that his cybersecurity methodologies involving AI-powered threat detection and zero-trust architecture, are cutting-edge strategies with national importance in an evolving field critical to addressing emerging cyberthreats. The Petitioner highlights the evidence he submitted to support his claim including an overview of cybersecurity, the cost of cybercrime in the United States, the Biden-Harris Administration's national cybersecurity strategy, and documentation from the National Science Board.

The Petitioner explains that in the field of cybersecurity management, he will build upon his experience by developing strategies to improve the security posture and overall resilience of critical infrastructure by leading initiatives to fortify critical infrastructure defenses and protect vital systems from cyberattacks. He also plans to share his knowledge and mentor cybersecurity professionals through industry forums, publications, collaboration with academic institutions, and potentially, formal training programs in order to foster a more knowledgeable and prepared workforce. On appeal, the Petitioner asserts that his approach will incorporate the latest innovations in cybersecurity, including AI-driven solutions to prevent cyberattacks before they happen which he believes will be a shift from conventional reactive approaches. The Petitioner further asserts that the testimony of I-O-,[2] an IT Security Expert who opined that his expertise in wireless networking, TCP/IP protocols, mobile device security, Python (machine learning), and IT security management along with his certifications, and master's degree in IT security management underscore the Petitioner's commitment to professional growth and excellence. I-O- further opined that the Petitioner's endeavor aligns closely with the national interest and priorities outlined in the Biden-Harris Administration's national cybersecurity strategy. He asserted that the Petitioner's proactive approach to enhancing cybersecurity resilience and contributing to the nation's digital defense capabilities make him a valuable asset to the United States. Therefore, the Petitioner argues that the Director's failure to recognize the national importance of his proposed endeavor disregarded how directly aligned his work is with the U.S.

[2] We use initials to protect the privacy of individuals.

government's cybersecurity national priorities – cyberattacks on critical infrastructure. The Petitioner additionally argues that contrary to the Director's conclusion, his proposed endeavor will broadly impact the cybersecurity field because the methodologies he adopts such as AI-powered threat detection and zero-trust architecture are at the forefront of cybersecurity innovations and are rapidly adopted across industries. He states that AI-powered threat detection and zero-trust architecture are being implemented by organizations in various sectors such as finance, healthcare, government and defense and that AI-powered threat detection allows for faster identification of potential security breaches by analyzing large volumes of data and detecting patterns that may not be identifiable by traditional methods; while zero-trust architecture which assumes that no user or device should be trusted by default, further strengthens cybersecurity measures by limiting access to sensitive information only to those with verified credentials.

The record includes among other things, the Petitioner's personal statements; expert opinion letter concluding that the endeavor is of national importance; letters of support/recommendation; documentation supporting the Petitioner's educational and professional experience; presidential executive orders; reports detailing the demand for and impact of the cybersecurity sector; and explanations of government-backed science, technology, engineering, and mathematics (STEM) initiatives and the need for STEM talent.

After de novo review, we conclude that the Petitioner has not satisfied the first prong of the *Dhanasar* framework requiring a proposed endeavor to be of national importance. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of the proposed endeavor. *Id.* at 889. An endeavor may have an impact rising to the level of national importance "because it has national or even global implications within a field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* An endeavor may also have other broader implications that make it nationally important, such as the "significant potential to employ U.S. workers" or other "substantial positive economic effects." *Id.* at 890. The Petitioner broadly asserts that his proposed endeavor demonstrates these types of impacts, but the record does not support this contention.

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, the Petitioner states that he plans to share his knowledge and mentor cybersecurity professionals through industry forums, publications, collaboration with academic institutions, and potentially formal training programs. But the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his clientele to impact the cybersecurity industry or otherwise impact economic initiatives more broadly at a level commensurate with national importance. Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects. He has not shown that his proposed endeavor would materialize into a company with associated tax revenue, employment, and financial initiatives providing substantial economic benefits in the United States.

The Petitioner has also not demonstrated by the preponderance of the evidence that the proposed endeavor would have a substantial economic benefit. While the Petitioner notes that the cybersecurity market is poised for substantial expansion, with revenues expected to reach US$273.58 billion worldwide and US$113.85 billion in the United States alone by 2028, and an anticipated annual growth rate of 10.56%

globally and 9.79% in the United States from 2024 to 2028 thus presenting abundant opportunities for innovation and economic growth, the Petitioner does not explain how his contribution would be considered substantial compared to the sizeable and established cybersecurity industry currently operating in the United States.

The Petitioner also argues that his endeavor aligns with national initiatives to increase STEM talent in the United States; he contends that his extensive cybersecurity experience would make his work impactful and provide benefits in line with these initiatives. Moreover, the Petitioner highlights that he is currently pursuing a degree in Cybersecurity and Networking at [redacted] College. However, the execution of a proposed endeavor by a STEM professional does not necessarily make the endeavor nationally important. Similarly, the Petitioner has not shown by a preponderance of the evidence that his work will offer the type of "improved manufacturing processes" or similar outcomes in the United States that would be considered nationally important to the field. *Id.* at 889. While the Petitioner repeatedly characterizes his work as "cutting-edge" and "unique," the Petitioner has not shown that he has or will develop such processes or otherwise advance the cybersecurity field.

Ultimately, the record does not demonstrate that benefits to the regional or national economy resulting from the Petitioner's undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890. Although the Petitioner has highlighted the importance of good cybersecurity practices and the positive impact that good security practices can have, he has not shown that through his proposed endeavor he would represent a significant share of the cybersecurity market or otherwise have a national impact.

Because the record does not establish the national importance of the proposed endeavor, the Petitioner has not demonstrated eligibility for a national interest waiver. We reserve opinion on whether the Petitioner could satisfy the remaining eligibility criteria to qualify for a national interest waiver. *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 shown that the proposed endeavor is of national importance. Because he has not met the first prong of the *Dhanasar* analytical framework, we find that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.