U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36835422

Date: MAR. 24, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an industrial engineer, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 that although the Petitioner qualified as an advanced degree professional, he did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.[1] 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.

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,[2] grant a national interest waiver if the petitioner demonstrates that:

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[1] An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. 8 C.F.R. § 204.5(k)(2).

[2] *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 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.

The Director did not make a determination as to whether the Petitioner's proposed endeavor has substantial merit. An endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Matter of Dhanasar*, 26 I&N Dec. at 889. The record before us contains evidence of the substantiality of the proposed endeavor's merit in the field of business. Therefore, the record supports the substantial merit of the Petitioner's proposed endeavor.

Alongside demonstrating its substantial merit, a petitioner must also establish the national importance of their proposed endeavor. We agree with the Director that the Petitioner's proposed endeavor did not have the required national importance to meet the first prong of the *Dhanasar* framework.

The first prong of the *Dhanasar* analytical framework focuses on the specific endeavor that the individual proposes to undertake. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* The Petitioner's proposed endeavor is "to continue working as an Industrial Engineer for a company based in the United States" as it "aligns with his vision of contributing to the country's economy and addressing existing needs in various industries, especially medicine." He stated that his endeavor will focus "on tackling critical challenges in the Manufacturing Industry, supply chain management, and healthcare system." He asserts on appeal that the "comprehensive evidence provided, including various publications, endorsements from leading experts in the field, and a detailed plan. . . unequivocally establishes both the substantial merit and the profound national interest of the proposed work."

Notably, the publications he submitted, which were also incorporated into his professional plan, generally highlight the importance of the manufacturing industry. However, when determining national importance, the relevant question is not the importance of the industry, sector, or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.* In *Dhanasar*, we further 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 reviewed the endorsement letters containing testimonials of the services the Petitioner performed but they do not describe how the benefits they have received connect to broader implications rising to national importance or any nationally important economic impact. For instance, the letter from [redacted] states that the Petitioner "has been instrumental in the development and implementation of new manufacturing processes that have significantly increased our production efficiency and product quality" and "[h]is innovative solutions to complex manufacturing and engineering challenges have led to cost savings of over $450K USD annually." Moreover, the letter from [redacted] states the Petitioner was "accountable for kicking off the implementation of [redacted] at his department" which "significantly improved our production

processes." Benefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a person's endeavor has national importance.[3] Here, the letters do not detail how the Petitioner's particular endeavor will impact the industry on a nationally important level.

The Petitioner also submitted an expert opinion letter from a professor at [redacted] University. USCIS may, in its discretion, use as advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, *see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). Here, much of the content of the expert opinion letter lacked relevance and probative value with respect to the national importance of the Petitioner's proposed endeavor. In addressing the first prong of the *Dhanasar* framework, the author describes the U.S. manufacturing industry and its importance on the U.S. economy. It describes how the manufacturing industry supports national initiatives, and that the Petitioner's experience makes him capable to provide industrial engineering services to the manufacturing industry. It focuses on the importance of the manufacturing industry and how the Petitioner's experience as an industrial engineer would be beneficial to the United States. It also broadly claims the Petitioner's endeavor will have a significant impact on employment, national and global implications, and enhance societal welfare. In addition, the author highlights that the Petitioner's proposed endeavor aligns with national initiatives, including the Executive Order on America's Supply Chains, American Innovation and Competitiveness Act, and STEM Education Strategic Plan. However, as noted above, merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Matter of Dhanasar* at 889. Here, the letter does not contain sufficient information and explanation of the Petitioner's endeavor, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work in industrial engineering offers broader implications in his field or substantial positive economic effects for our nation that rise to the level of national importance.

In the professional plan, the Petitioner states he "is capable of developing solutions that mitigate the supply chain crisis, improve manufacturing efficiency, and enhance the healthcare system" and that he will "reduce the job market gap, promote sustainability, drive digital transformation, and advance the quality and accessibility of healthcare services." Moreover, he "intends to follow up on the needs of customers worldwide, generating new products that result in increased purchase orders and, subsequently, more job opportunities for American citizens." The Petitioner, however, has not provided evidence demonstrating that his proposed endeavor would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the asserted potential prospective impact of his proposed

[3] *6 USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5. *See also* USCIS Policy Alert, PA-2025-03, National Interest Waivers for Advanced Degree Professionals or Persons of Exceptional Ability (Jan. 15, 2025), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250115-Employment-BasedNationalInterestWaivers.pdf.

endeavor stands to offer broader implications in his industry or to generate substantial positive economic effects. 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 conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his employer(s) to impact his field of industrial engineering, the economy, or U.S. societal welfare more broadly at a level commensurate with national importance.

The Petitioner also did not show that his proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation directly attributable to his future work, the record does not show any benefits to the U.S. regional or national economy resulting from his work would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

As to the Petitioner's assertion that he "will contribute to ameliorating the shortage of talent in STEM fields through his expertise and commitment to training and developing individuals in engineering disciplines" in his professional plan, the national shortage of STEM professionals is not, in and of itself, sufficient to establish the national importance of the Petitioner's endeavor. Further, the Department of Labor directly addresses U.S. worker shortages through the labor certification process.

The Petitioner also relies, in large part, on his academic credentials and professional experience to establish the national importance of his proposed endeavor. However, the Petitioner's academic credentials and experience are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* The issue here is whether the Petitioner has demonstrated, by a preponderance of the evidence, the national importance of his proposed endeavor.

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address his eligibility under the remaining prongs, and we hereby reserve them. *See INS v. Bagamasbad,* 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. The burden of proof is on the Petitioner to establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that he has not established eligibility for a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.