U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37525491

Date: MAR. 26, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a cost estimator, seeks 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 EB-2 immigrant 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 for the classification as an advanced degree professional and his endeavor has substantial merit, the Petitioner had not established that the endeavor is of national importance, that he is well positioned to advance such endeavor, or that, on balance, 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 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)(A), (B) of the Act; 8 C.F.R. § 204.5(k)(1).

If a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish 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

[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 petitioner demonstrates that: (1) the proposed endeavor has both substantial merit and national importance; (2) the individual is well positioned to advance the proposed endeavor; and (3) on balance, waiving the requirements of a job offer and a labor certification would benefit the United States. *Id.*

II. ANALYSIS

The record shows that the Petitioner obtained a master's degree in civil engineering from the University of [redacted] in December 2022.[2] According to his resume, the Petitioner has been working a cost manager for [redacted][3] since January 2023 and has prior experience working as a cost estimator for companies in Kazakhstan. The Petitioner's endeavor is to work as a cost estimator in the electric vehicle (EV) industry, "particularly focusing on the development of EV battery plants" in the United States.

The Director determined that the Petitioner did not demonstrate that his proposed endeavor is of national importance under the first prong of the *Dhanasar* analytical framework. On appeal, the Petitioner contends that the Director's decision "failed to substantively engage with the body of evidence presented, relying instead on generic template language." The Petitioner also asserts that the decision "overlooked the evidence in record, contrary to the requirements set forth in *Matter of Chawathe*, which mandates a thorough examination of each piece of evidence for its relevance and probative value."

We acknowledge that the Director's decision did not specifically identify particular pieces of evidence in analyzing the endeavor's national importance. However, when the Director provides a reasoned consideration to the petition and has made adequate findings, it will not be required to specifically address each claim the petitioner makes, nor is it necessary for it to address every piece of evidence the petitioner presents. *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *see also Yahkpua v. INS*, 770 F.2d 1317, 1321 (5th Cir. 1985); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993); *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009). Here, even though the Director did not name individual evidence on record, the decision reflects the Director's consideration of the relevant evidence in the totality and a reasoned discussion leading to adequate findings.

Upon de novo review, we agree with the Director's ultimate conclusion that the Petitioner did not demonstrate his endeavor's national importance. Under the preponderance of evidence standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 376; *see also Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). The evidence submitted by the Petitioner lacked probative value in supporting national importance of the endeavor, as discussed below.

To evaluate whether the proposed endeavor satisfies the national importance requirement, we focus on the specific endeavor that the foreign national proposes to undertake and look to evidence documenting its "potential prospective impact." *Dhanasar*, 26 I&N Dec. at 889. We also stated that

[2] Based on this evidence, the Petitioner qualifies as an advanced degree professional.

[3] This company appears to provide consulting services on cost and project management in the field of construction and engineering.

"[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890.

The Petitioner has contended that the national importance of his endeavor is evident from the importance of building EV battery plants and the value of his profession as a construction cost estimator. The Petitioner claimed that his endeavor supports "key national objectives" such as development of EV infrastructure, energy independency, and reduction in carbon emission, and directly contributes to "job creation in various sectors including construction, engineering, and project management," future technological advancements, environmental benefits, and supply chain stability.

In support of his claims, the Petitioner submitted numerous articles and reports, such as studies on benefits of EVs, outlook on EV battery plants and the charging network, and the importance of clean energy jobs; fact sheets from the Biden-Harris administration on investing in affordable electric vehicles and creating cost-saving clean energy; the June 2021 White House report containing supply chain issues for high capacity batteries used in EVs; and the 2020 United Nations' report on sustainable development goals.[4]

However, 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. Here, the Petitioner largely relied on the industry articles and reports to claim that the field of the endeavor has national importance, instead of focusing on his specific endeavor. None of the articles and reports specifically mention the Petitioner's name or his work or discuss the government's interest in promoting the use of the Petitioner's particular methods or solutions, such that it has "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or otherwise have broader implications, such as "significant potential to employ U.S. workers or ha[ve] other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90.

The Petitioner claimed that his proposed endeavor goes "significantly beyond" a cost estimator's functions, such as estimating, planning, and managing construction costs effectively. The Petitioner stated that his role includes "[leading] projects that are critical to the establishment of a robust national infrastructure for EVs"; "[involvement] in strategic decision-making processes with key stakeholders to drive national projects that support the U.S. government's goals for a cleaner energy future"; "development of training programs to elevate industry standards within the field of construction management for green technology sectors"; and "[working] with industry groups and policymakers to advocate for changes that support the growth of the EV infrastructure." However, the record does not include any specific plans as to how he will provide the necessary training programs, engage with government officials, or involve in decision making processes of national projects.

The Petitioner also submitted various reference letters and opinion letters. Some of the reference letters praise the Petitioner's skills and experience working as a cost consultant or cost estimator in Kazakhstan, his leadership and abilities as a graduate teaching assistant, and the value of his

[4] This is not an exhaustive list of industry articles and reports submitted by the Petitioner but is representative of the evidence submitted to support the national importance of his endeavor.

certification and membership with the [redacted]. However, these letters only demonstrate the Petitioner's accomplishments in his past engagements and projects and do not sufficiently address his specific future endeavor and its broad impact to the EV manufacturing, construction of EV battery plants, or the cost estimator profession. In addition, the Petitioner's knowledge, skills, and experience in the 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.

The Petitioner included a copy of his cost model created in the course of his current employment and emails from his clients showing positive feedback regarding his work. We acknowledge that the Petitioner's role as a cost estimator for EV battery plant projects is valuable for his employer; however, the Petitioner has not demonstrated that the economic implications and technological advancements resulting from the company's operations would be directly attributable to his particular role. Furthermore, the evidence does not demonstrate that the potential prospective impact of the endeavor as a cost estimator rises to the level of national importance contemplated in *Dhanasar*.

The record contains an opinion letter from a professional working at another construction consulting firm. The author generally mentions the importance of building EV battery plants, the nation's commitment to sustainable energy sources, and the significance of proficient cost management services in the successful implementation of EV battery plan projects. However, the author does not include any persuasive and corroborating information about the Petitioner's proposed endeavor and its impact rising to the level of national importance. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l*, Inc., 19 I&N Dec. 791, 795 (Comm'r 1988). However, we are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought and the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, the expert opinion letter is of little probative value as it conflates the importance of the field overall with the national importance of the specific endeavor.

With the appeal, the Petitioner submits additional news articles on various projects and ventures by companies to invest and build EV battery plants, along with the previously submitted February 2022 report on critical and emerging technologies. The Petitioner claims that as "the electric vehicle market continues to expand" and "the demand for advanced battery production capabilities" increases, his endeavor "will ensure that these projects . . . meet their critical timelines and budgets, reinforcing my role in advancing the national interest" and "play a pivotal role in shaping the landscape of America's clean energy infrastructure." Although we recognize the value of such EV innovations and importance of STEM related professions, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. As discussed earlier, the proposed endeavor itself must meet the level of prospective impact set forth in *Dhanasar*.

Here, the Petitioner did not sufficiently demonstrate how the proposed endeavor stands to extend beyond his employer and its clientele to impact the construction industry of EV battery plants or the profession of construction cost estimators more broadly. Nor has the Petitioner shown that his future projects offer original innovations that contribute to advancements in the industry or otherwise has broader implications, such as a significant potential for job creation or substantial economic effects. Without sufficient documentary evidence of the endeavor's broader impact, the Petitioner's proposed endeavor does not meet the national importance element in *Dhanasar*'s first prong.

Because the documentation in the record does not sufficiently establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated his eligibility for a national interest waiver. Therefore, further analysis of his eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose. *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

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

ORDER: The appeal is dismissed.