U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36818034

Date: MAR. 27, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a clinical research and biopharmaceutical services company, petitions for the Beneficiary, a systems administrator, who 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, concluding that although the Petitioner had established the Beneficiary is eligible for EB-2 classification, the record did not support a finding 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 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:

[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 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.

II. ANALYSIS

The Petitioner, through counsel, claims the Beneficiary intends to work as a principal systems administrator for the Petitioner, a clinical research and biopharmaceutical services company. The Petitioner is headquartered in the United States and claims to "provide clinical research trial development and expertise to streamline transformation of scientific discovery into new treatments." They assert that the proposed endeavor aims to "advance clinical trial work through the use of Artificial Intelligence (AI) technical frameworks." Specifically, the Petitioner states the Beneficiary will "ensure the seamless and secure operation of systems essential to [the Petitioner's] [redacted] – an entity dedicated to advancing clinical development through AI-powered solutions." Further, they contend the primary goal of their company "is to help clients quickly obtain the necessary regulatory approvals of their products and, ultimately, optimize the market penetration of those products, getting medicines into the hands of those who need them." The Petitioner claims that the Beneficiary's background and education have given him the necessary experience to succeed in this role in the United States as a temporary employee of the company, developing different aspects of the Petitioner's [redacted] software platform and data infrastructure.

The Director determined that the Beneficiary qualifies as a member of the professions holding an advanced degree, and he had established his proposed endeavor – working as a systems administrator for an AI laboratory – has substantial merit. However, the Director concluded the Petitioner did not establish that the Beneficiary's proposed endeavor has national importance as required to establish eligibility for a national interest waiver under the *Dhanasar* framework. The Director further found the Beneficiary was not well-positioned to advance his proposed endeavor, nor that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus a labor certification. We agree that the Petitioner has not established that the proposed endeavor has national importance and will dismiss the appeal accordingly.[2]

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.* The Director found that the Petitioner did not establish that the proposed endeavor met the national importance element of the first prong of the *Dhanasar* framework. Specifically, the Director determined the Petitioner did not establish the proposed endeavor would have broader implications to the science, technology, engineering, and mathematics (STEM) fields, extending beyond the Petitioner company; or how the labor certification

[2] If the Petitioner does not meet the first prong of the *Dhanasar* framework, the evidence is dispositive in finding the Beneficiary ineligible for the national interest waiver, and we need not address the remaining requirements under the second and third prongs.

process restricts his ability to work in the field, given the demand for qualified workers in the United States. The Director further concluded the Petitioner did not submit sufficient evidence to establish the proposed endeavor would have significant potential to employ U.S. workers, would have substantial positive economic effects, would broadly enhance societal welfare, or would broadly enhance cultural or artistic enrichment.

The record does not establish the proposed endeavor will have substantial positive impacts on the U.S. economy. Although any basic economic activity has the potential to positively impact a local economy, the Petitioner has not demonstrated how the economic activity directly resulting from the Beneficiary's proposed endeavor would rise to the level of national importance. An endeavor may have national importance if it "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area . . . ." *Id.* at 890. The Beneficiary seeks to utilize his knowledge of "Windows and Linux Systems Administration, Cloud (Azure, AWS), and DevOps Engineering" to serve as principal systems administrator of a clinical research and biopharmaceutical services company, with the proposed endeavor specifically aimed at supporting the AI labs and their role in the development of clinical trials for pharmaceuticals. The Petitioner asserts on appeal that the proposed endeavor will positively contribute to the U.S. economy. Throughout their statements, both initially and on appeal, the Petitioner emphasizes the scale and reach of their company. However, the focus of the inquiry is on the specific proposed endeavor the Beneficiary would undertake. Although the Petitioner argues the importance of their work, the evidence and figures do not establish the Beneficiary's specific endeavor would operate on a scale rising to the level of national importance. The Petitioner cites the scale of their overall company; however, they have not explained how the Beneficiary's endeavor would affect the company's employment metrics or revenue and have impact beyond the business's area of intended operations. Upon de novo review, the Petitioner did not establish the proposed endeavor would have substantial positive economic effects.

Further, the evidence submitted by the Petitioner does not establish the Beneficiary's specific proposed endeavor would operate on such a large scale to have a national impact on the STEM fields. When determining the national importance of a proposed endeavor, the relevant question is not the importance of the industry, sector, or profession in which the individual will work; rather, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. 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.* The Petitioner argues that the proposed endeavor will help fill an existing need for workers in the STEM fields, through the Beneficiary's work in the development and maintenance of systems involved in the Petitioner's research endeavors, as well as having a broad impact on those fields and on biopharmaceutical services. They continue to assert on appeal that the proposed endeavor demonstrates national importance because it relates to identified priorities of the U.S. government, including the development of AI technologies, citing U.S. government websites and reports on the field. Additionally, the Petitioner highlights the use of AI technical frameworks in advancing clinical trial work, which the Petitioner argues will "have a positive economic benefit by bringing better medicines to the American people faster and thus reducing the burden of medical care costs." They contend "the primary benefit of the Beneficiary's proposed endeavor is to reduce the significant amount of time spent on clinical trials and being better medicines to the American people at a faster rate." Although the Petitioner company has the potential to provide

valuable services to their clients, they did not establish the Beneficiary's specific proposed endeavor will have substantial national implications or have a broader impact beyond the individuals directly served by the company. The Petitioner also has not established that the proposed endeavor stands to significantly reduce a national labor shortage in the STEM fields as claimed. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process. While we acknowledge the importance of the STEM fields, the Petitioner did not establish the proposed endeavor would have broader implications to the overall field to establish its national importance. *See id.* 893 (finding the petitioner did not establish that his proposed teaching activities would impact the field more broadly to rise to the level of national importance).

Accordingly, we find that the record does not demonstrate national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, and the Petitioner has not demonstrated eligibility for a national interest waiver for the Beneficiary. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

As the Petitioner has not established the Beneficiary meets the requisite first prong of the *Dhanasar* analytical framework, we conclude that they have not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.