U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34817513

Date: NOV. 18, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a pharmaceutical company, seeks employment-based second preference (EB-2) immigrant classification for the Beneficiary, a data engineer and manager, as an advanced degree professional or a person of exceptional ability, as well as a discretionary national interest waiver of the job offer requirement attached to this classification. 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 Beneficiary qualifies for the EB-2 classification as an advanced degree professional, the record did not establish that a waiver of the required job offer, and thus labor certification, would be in the national interest. This matter is now before us on appeal, which we review 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 be eligible for a national interest waiver, a petitioner must first establish eligibility for the underlying EB-2 visa classification, as 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 establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they warrant 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, which states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner establishes that: (1) the proposed endeavor has both substantial merit and national importance; (2) they are well positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer and thus labor certification requirements would benefit the United States. *Id.*

Petitioners bear the burden of establishing eligibility for the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts in holding that USCIS' decision on a national interest waiver is discretionary in nature).

II. ANALYSIS

The Director determined, and the record—including a copy of a 2003 bachelor's degree from India, university transcript, diploma evaluation, and letters from current or former employers—indicates, that the Beneficiary qualifies for the EB-2 classification as an advanced degree professional holding a U.S.-equivalent bachelor's degree with at least five years of progressive post-degree experience in the field of specialty. 8 C.F.R. §§ 204.5(k)(1)-(2), (k)(3)(i)(B).

The remaining issue on appeal is whether he warrants a national interest waiver under the *Dhanasar* framework and its requisite three prongs, any one of which is dispositive. The Director found that although the Beneficiary's proposed endeavor has substantial merit, the record did not show that it has national importance and thus did not satisfy *Dhanasar*'s first prong.[2] On appeal, the Petitioner does not submit any new evidence but reiterates the Beneficiary's eligibility for a national interest waiver, and alleges that the Director failed to properly consider all relevant evidence and correctly apply the *Dhanasar* framework. We conclude that the evidence does not demonstrate that the proposed endeavor has national importance, and the appeal therefore will be dismissed on this ground.

The Beneficiary obtained a "Bachelor of Technology (Computer Engineering)" in 2003 from India and he has worked for several information technology (IT) and data solution companies, initially as a software and applications engineer in India; then as a solution architect manager from 2009 to 2014; and subsequently as an applications manager for a nutritional supplements company. In August 2020, he started working for the Petitioner, a pharmaceutical company[3], as a senior IT operations manager and now works as "Associate Director, Master Data Management ["MDM"] Implementation Lead" following a recent promotion. He intends to continue to work in this position and develop, implement, and manage digital platforms by utilizing artificial intelligence ("AI") and machine learning, and help optimize the Company's laboratory workflows and clinical trial data integration, ensure data security, improve access to high-quality information, accelerate its drug research, development, and regulatory approval processes, and facilitate its goal of efficiently producing innovative, effective therapeutics and novel pharmaceutical treatments for patients.[4]

Dhanasar's first prong, "substantial merit and national importance," focuses on the specific endeavor the Beneficiary proposes to undertake, and its merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. In assessing whether the proposed endeavor has national importance, we consider and look for evidence of its potential prospective impact. *Id.* Although the Beneficiary's proposed endeavor as a lead MDM engineer and manager for the Company as described has merit, the evidence does not show that it would have significant potential to employ U.S. workers, have substantial positive economic impact in this country, broadly impact the U.S. data, pharmaceutical, or healthcare industry on national or global level beyond his employer and its business partners, collaborators, and potential customers, or otherwise have broader economic or societal implications rising to the level of national importance.

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[2] The Director did not reach *Dhanasar*'s second and third prongs.

[3] For purposes of this decision, the term "Company" interchangeably refers to the Petitioner.

[4] The record shows the Beneficiary works for the Petitioner, a pharmaceutical company, as an H-1B nonimmigrant worker. But his resume only lists the dietary supplements company as his current employer, for whom it states he presently works as a data manager. This employer previously sought EB-2 immigrant classification for him as an advanced degree professional or a person of exceptional ability "who is NOT seeking a National Interest Waiver," which was approved with a 2015 visa priority date indicating three years of wait time until it becomes current, according to the latest visa bulletin.

Under the applicable evidentiary standard, we consider not only the quantity, but also the quality (including relevance and probative value) of the evidence. *Chawathe*, 25 I&N Dec. at 375-76; *see also Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). In reasserting that the proposed endeavor has national importance, the Petitioner relies on the Beneficiary's academic credentials and experience as a data engineer specialist and manager, as indicated in his resume, personal statement, support letters, and his Company records (including information on its financials, products, implementation plans, clinical trial summaries and sites, journal articles, large market presence, partnerships with other entities, and the Benecifiary's company role, projects, and presentations), as well as the voluminous general industry articles noting the importance of the pharmaceutical, healthcare, and AI industries. The Petitioner and the Beneficiary further continue to emphasize, as indicated in part in their respective statements and other support (or work verification) letters from his former and current employers, his skills and past experiences as a data engineer and MDM specialist, which they claim are critical to ensuring the quality and integrity of the Company's clinical trial data, analysis, and application in the research and development phase of its new drugs. They reiterate that, given his background and expertise, which highly qualify him for the Company's MDM role, and the pharmaceutical industry's need and demand for individuals like him, his proposed endeavor will have substantial positive economic and societal impact. However, these assertions and evidence primarily focus on the Beneficiary's experience, skills, and the importance of his profession, and relates to *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national" and whether they are "well positioned" to advance their endeavor. *Dhanasar*, 26 I&N Dec. at 890.

For assessing the national importance of a proposed endeavor under *Dhanasar*'s first prong, we look to its "potential prospective impact" and evaluate whether the specific endeavor the Beneficiary intends to undertake has broader national significance, rather than the importance of his profession or industry in which he proposes to engage. *Id.* at 889. Here, he proposes to continue working as a lead MDM engineer and manager for his Company, main duties of which include "clean[ing], organiz[ing], and centraliz[ing] data" from its clinical trials for its research and development teams; enhancing access to and use of secure and well-designed databases; and ensuring data quality and availability in drug development decision-making process. As noted, he plans to continue to develop, implement, and manage MDM systems and digital platforms with cutting-edge analytics capabilities and automation by using AI and machine learning technologies, which he and the Petitioner reiterate will optimize workflow integration, improve access to critical information, and facilitate safe data storage and sharing, as well as high-impact knowledge generation, research, and communication they claim will ultimately result in life-changing discovery and production of innovative and novel treatments for patients and significantly impact the pharmaceutical, medical research, and healthcare industries.

The Petitioner also generally asserts that the Beneficiary "is recognized as a leading professional in his field and he has made a tremendous impact on ensuring high-quality regulatory submission compliance for innovative medicines." The Beneficiary's supervisor similarly highlights his "instrumental role" and "substantial impact" based on his company project successes and the value of his "recommendations and approaches to implementing MDM capacity" in advancing the Company's research and development. The Petitioner also asserts that the Beneficiary's "innovative platforms" and "technological innovations" facilitate "real-time collaboration" among scientists globally, help disseminate clinical trial findings, and accelerate publication of scientific articles. But the Petitioner does not claim, and the record contains no evidence, that the Company itself publishes scientific articles or widely disseminates publicly its clinical studies and findings beyond its own business

interests and restrictions, or that the Beneficiary is directly involved in such enterprises. The record also lacks objective evidence that he has in fact developed innovative data solution, applications, or MDM models that are unique or novel and, if he did, they were or would be recognized or adopted by the U.S. pharmaceutical industry or any other field that may be interested in his MDM strategies. The record further lacks evidence of any particular interest of significance in his proposed data work (other than from his employer) that may otherwise indicate far-reaching, industry-wide importance of his specific proposed endeavor or set it apart in a nationally distinguishable manner. Although we acknowledge that the proposed endeavor could have a positive impact on the Beneficiary's career, his Company, their business collaborators, and customers, the Petitioner has not persuasively explained, and the record (primarily including the above assertions and documents) does not show how his proposed work as a lead MDM specialist would have the national or global implications for the stated industries as they claim, beyond the Beneficiary's Company, its business partners, and future clientele.

Further, the Petitioner does not claim that the Beneficiary himself will employee U.S. workers or that his position within the Company has directly resulted in or will directly result in hiring of U.S. workers. The Petitioner also does not specify, and the record lacks independent evidence as to, how the Beneficiary's proposed work for the Company otherwise stands to impact U.S. economy or benefit economically depressed areas. *Dhanasar*, 26 I&N Dec. at 890 (holding that proposed endeavors that have "significant potential to employ U.S. workers" or "substantial positive economic effects, particularly in an economically depressed area" may indicate national importance). The Petitioner does not claim, for instance, and the record contains no evidence, that the Beneficiary's work as a lead MDM specialist has directly benefited or will specifically benefit any economically depressed area. Other than generally asserting the importance of his company role in the MDM field simply by virtue of also being involved in the pharmaceutical industry and utilizing AI technologies, it is unclear how his work as a lead data manager specifically facilitates and elevates its significance to a national level. And his general assertions do not provide an objective basis for the claimed wide, indirect impact of implementing and managing data solution, applications, and platforms as a single company employee. The claimed significance of the pharmaceutical and AI markets thus does not directly evidence or specifically relate to the claimed economic and societal impact of his proposed company MDM work.

Although the Petitioner reiterates the large sizes and potential economic impact of the multibillion dollar pharmaceutical, healthcare, and AI industries, which various entities have generally described as critical, the record lacks probative evidence that the potential impact of these industries would be directly attributable to the Beneficiary's proposed endeavor. The Petitioner also does not explain or delineate, and the record lacks competent evidence as to, the potential impact of the Beneficiary's specific endeavor relative to the stated industries. The general significance or potential impact of these industries therefore does not specifically inform the importance of the Beneficiary's own proposed work within the Company, and does not necessarily evidence its claimed inherent national importance.

The Petitioner nonetheless continues to highlight, and we acknowledge, the Beneficiary's background and past accomplishments as well as their value in other industries that rely on advanced data systems, including the pharmaceutical industry, which as explained, pertain to *Dhanasar*'s second prong and thus do not show that his specific endeavor would have substantial positive economic or societal effects at a national level. The importance of the proposed endeavor, as noted, is evaluated by its specific potential prospective impact, rather than by the importance of the profession in which he proposes to engage based on his skills that may position him well for future success (or by the

importance of other industries that may rely on his expertise). *Dhanasar*, 26 I&N Dec. at. at 889-890. The purpose of the national interest waiver therefore is not to ensure continued employment or facilitate U.S. job search in industries that may also have national significance. Anyone seeking such a waiver must show that the *specific* endeavor they propose to undertake has national importance. *Id.*

While we acknowledge his desire to continue to work for the Petitioner and contribute to the U.S. data, IT, and pharmaceutical industries, the Petitioner has not established with probative evidence that the Beneficiary's proposed endeavor as a lead MDM engineer and manager will specifically further its objectives in a nationally significant manner, have broader implications in his field (or other industries), have significant potential to employ U.S. workers, or have substantial positive economic or societal effects. The Petitioner has not met *Dhanasar*'s national importance prong and therefore has not established that the Beneficiary is eligible for a discretionary national interest waiver.

As the identified ground for denial, the Petitioner's inability to satisfy *Dhanasar*'s first prong is dispositive of this appeal, we do not address here the second and third *Dhanasar* prongs for a discretionary national interest waiver. *See, e.g.*, *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to reach issues that are unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.