U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31285796

Date: SEP. 27, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a researcher in advanced manufacturing, seeks second preference 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 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 the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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. 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)(B)(i) of the Act.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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. While neither the statute nor the pertinent regulations define the term "national interest," *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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

Id.

II. ANALYSIS

The Director determined that the Petitioner qualifies for underlying EB-2 classification as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

The Petitioner initially indicated that his proposed endeavor "is to continue his research on developing state-of-the-art mathematical models to improve performance and efficiency in manufacturing and promote efficient, effective, and stable supply chain management in order to improve the productivity of manufacturing and energy sectors." The Petitioner stated that he "is currently conducting research at [redacted] [and] intends to continue his research on performance and efficiency in manufacturing and supply chain management." He further stated that upon completion of his degree, "[his] advisor intends to hire [him] for a postdoctoral research position." In response to the Director's request for evidence (RFE), the Petitioner explained that his proposed endeavor is of national importance "considering the ongoing and future shift from fossil fuels to renewable energy sources to power the nation." He indicated that one of his proposed endeavor's focuses is to minimize the maintenance operations costs and improve the logistics of offshore wind farms and his aim is to conduct additional research on wind energy, with the goal of optimizing the spare parts and manufacturing production rate in this sector. He further stated that his aim is "to address production/service issues and supply chain disruptions, which are significant concerns for the United States [and] to ensure optimal allocation of resources and manpower to manufacturing and service sectors." He stated that his "work is therefore directly beneficial to the United States by contributing to decreasing manufacturing/service providing cost inside the US and reducing reliance on outsourcing."

The Director reviewed the totality of the evidence in the record, including the Petitioner's statements, letters of recommendation, education and credential information, and industry reports and articles.[2] The Director determined that the Petitioner established the proposed endeavor's substantial merit but not its national importance. Regarding substantial merit, the endeavor's merits may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. In determining that the Petitioner did not establish the national importance of his proposed endeavor, the Director determined that while the Petitioner made claims that he will indirectly have a national impact in the industry by continuing his work of research

[2] This is a non-exhaustive list of evidence the Petitioner submitted in the record. While we may not discuss every document submitted, we have reviewed and considered each one.

in the field of advanced manufacturing, he did not provide sufficient evidence as to how this will be achieved. The Director noted that it remained unclear how the Petitioner's proposed endeavor stands to produce benefits that extend beyond his prospective employers, clients, or collaborators. The Director concluded that the Petitioner did not show how his proposed endeavor in advanced manufacturing will stand to impact the field on a national or global scale or that it stands to sufficiently extend beyond the individuals he would serve, to impact the Postdoctoral Research in Advanced Manufacturing industry or field more broadly. The Director further concluded that the Petitioner did not show how his proposed endeavor's economic impact would have significant potential to employ U.S. workers or have other substantial positive economic effects, particularly in an economically depressed area. Furthermore, the Director determined that the Petitioner did not offer sufficient evidence to demonstrate that his work stands to impact the regional or national population at a level consistent with having national importance, or that his work would have broader implications for the field or industry, beyond the clients he would serve. The Director also noted that although the Petitioner stated that upon completing his degree, his advisor intends to hire him for a postdoctoral research position, he did not provide evidence to show interest from any organization in working with him.

On appeal, the Petitioner reiterates his statements in the record, provided in his initial support letter and personal statements, as well as his RFE response and updated statement, and claims that the evidence does in fact establish the substantial positive economic impact and national importance of the proposed endeavor. The Petitioner highlights portions of his personal statement, as follows:

> My work seeks to ensure optimal allocation of resources and manpower to manufacturing and service sectors. My work is therefore directly beneficial to the United States by contributing to decreasing manufacturing/service providing cost inside the US and reducing reliance on outsourcing.
>
> *1: Advanced machining technology for titanium alloy and hardened steel with CNT (carbon nanotube) based minimum quantity lubrication and optimizing the process parameters*
> In the context of the United States, this project holds importance due to manufacturers worldwide facing increasing pressure to raise productivity as salaries rise in emerging economies. . . . Data indicates that most US manufacturing executives are exploring advanced manufacturing methods to gain a competitive edge. . . . This project's significance lies in addressing the challenges of machining Ti-6AI-4V alloy, which has implications for enhancing productivity, reducing manufacturing costs, and improving competitiveness in the manufacturing sector. By exploring advanced machining techniques and technologies for this alloy, the project aligns with the need to boost productivity and maintain a competitive edge in the face of rising global economic dynamics.
>
> *2: Offshore wind farms logistics and maintenance operations cost minimization*
> This project is important for the United States as it aligns with the country's ambitious climate goals of achieving net-zero carbon emissions by 2050 and a carbon-free power sector by 2035. . . . Offshore wind, with the capability to provide over 2,000 GW of energy in the U.S., can play a vital role in the clean energy mix. To achieve these goals,

federal leadership, investment in infrastructure, and scientific analysis are required to ensure economic viability, job creation, minimal environmental impact, and responsible ocean management. The current administration has taken steps by setting a national target, but further work is needed to scale up the offshore wind sector and create a sustainable future for the ocean and the economy.

3: Optimization of spare parts and production rate in manufacturing and wind energy sector
In the context of the United States, this project is relevant because the government has unveiled plans to accelerate the transition to carbon neutrality by promoting the development of offshore wind farms. Offshore wind is recognized as a means to create jobs and advance decarbonization efforts. The U.S. aims to lease federal waters for numerous projects and unlock a substantial portion of the country's offshore wind capacity to achieve its greenhouse gas emission reduction goals. The knowledge gained from this project directly contributes to the implementation of the U.S. government's targets and further the growth of offshore wind energy in the country.

Upon de novo review, we agree with the Director that the Petitioner's endeavor has substantial merit but does not satisfy the national importance element of *Dhanasar*'s first prong. If the Petitioner does not meet the first prong, the evidence is dispositive in finding the Petitioner ineligible for the national interest waiver, and we need not address the second and third prongs. *See id.* (requiring that petitioners establish all three prongs in order to establish eligibility).

First, we note that the Petitioner has not addressed all of the Director's conclusions on appeal. While the Petitioner reiterates and highlights the research he will continue to perform on appeal, he does not directly address the Director's concerns regarding how the Petitioner will achieve his goal to indirectly have a national impact in the industry by continuing his work of research in the in the field of advanced manufacturing; how his proposed endeavor stands to produce benefits that extend beyond his prospective employers, clients, or collaborators; how his proposed endeavor in advanced manufacturing will stand to impact the field on a national or global scale or that it stands to sufficiently extend beyond the individuals he would serve, to impact the Postdoctoral Research in Advanced Manufacturing industry or field more broadly; how his proposed endeavor's economic impact would have significant potential to employ U.S. workers or have other substantial positive economic effects, particularly in an economically depressed area; that his work stands to impact the regional or national populations at a level consistent with having national importance; or that he did not provide evidence to show interest from any organization in working with him upon completing his degree, as claimed.

The Petitioner stated that he is currently conducting research at [redacted] [and] intends to continue his research on developing state-of-the-art mathematical models to improve performance and efficiency in manufacturing and promote efficient, effective, and stable supply chain management in order to improve the productivity of manufacturing and energy sectors. While the record describes his past and current work and research in detail, the Petitioner offers little detail about the proposed endeavor. In other words, the Petitioner describes the proposed endeavor in terms of what he has already done, but he does not outline in specific detail any new research projects he will undertake. The Petitioner generally asserts that his work has many direct applications and one of the most prevalent is for offshore wind farms.

The Petitioner submitted evidence of his publications and citation record to establish how his past research success suggests that his future endeavor will have a similar impact. It appears that all of the Petitioner's research publications were produced while the Petitioner was a graduate student and researcher. While we acknowledge that evidence of the impact of his past work provides a basis to suggest that his future work will have a similar impact, this past research acclaim does not in itself establish the national importance of the proposed endeavor. Here, the Petitioner has not identified the specific nature of his proposed future activities so that we might determine the endeavor's possible impact. The Petitioner has not established how his past research record supports a finding that his future work will have a similar impact or that such impact would rise to the level of national importance.

The record includes letters of support from academics specializing in the fields of statistics and engineering who speak favorably about how the Petitioner's past research has contributed to the field of advanced manufacturing. While these letters discussed the broad impact of the Petitioner's proposed endeavor to the overall national interest of the United States and how his work will improve the sustainable energy sector, the authors demonstrate little knowledge concerning the Petitioner's proposed endeavor. Overall, we observe that the authors broadly report the same information about the Petitioner's past research topics. While research must add information to the pool of knowledge in some way in order to be accepted for publication, this alone is insufficient to substantiate a claim of impact to the field.

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 will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, although the authors discuss the nature of the work the Petitioner has performed in the past, they offer little specific information concerning the Petitioner's prospective future endeavor. As such, these letters are of little probative value regarding the first prong of the *Dhanasar* analytical framework, as they do not meaningfully address the details of the proposed endeavor and why it would have national importance. The Petitioner also presented articles and industry reports discussing the importance of manufacturing in the United States and of the need for wind power. However, in determining national importance, 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." *See Dhanasar,* 26 I&N Dec. 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.* While the articles and reports offer useful background information, they are of little probative value in this matter as they do not discuss the impact of the Petitioner's specific proposed endeavor.

Further, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. The imprecise nature of the Petitioner's proposed future research does not sufficiently demonstrate how it

would impact the advanced manufacturing field and economy more broadly, as opposed to being limited to his organization and its customers.

Simply obtaining employment or conducting research in a worthy field or industry, such as advanced manufacturing or wind energy, does not warrant a national interest waiver. Accordingly, without sufficient documentary evidence of its broader impact, the Petitioner's proposed research does not meet the "national importance" element of the first prong of the *Dhanasar* framework. Similarly, 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.

In addition, the Petitioner has not sufficiently demonstrated that his specific proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. The evidence does not show that the Petitioner's activities performed during his continued research while pursuing a doctoral program would have economic impacts beyond the clients and customers served by his organization such that it will have broader implications for others in the United States.

Finally, we note the Petitioner's statements regarding his expertise and prior career accomplishments in the field of advanced manufacturing and wind energy research. These statements, however, address aspects of the second *Dhanasar* prong but do not address how the proposed endeavor in the United States has broader implications beyond his immediate employer and its clients, as required by the first *Dhanasar* prong. *See id.*

The Petitioner has not adequately described his proposed endeavor. Furthermore, to the extent that his proposed endeavor can be understood, we conclude that the record does not contain sufficient evidence to establish its national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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 met the requisite first prong of the *Dhanasar* analytical framework, we conclude 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.