



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 29830837

Date: APR. 25, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an administrative services manager, seeks classification as an individual of exceptional ability in the sciences, arts or business. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition. The Director first concluded that the Petitioner does not qualify for classification as an individual of exceptional ability or, in the alternative, as a member of the professions holding an advanced degree. The Director also concluded that the Petitioner 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 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 a member of the professions holding an advanced degree or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

While neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that, after a petitioner has established eligibility for EB-2 classification, USCIS may, as a matter of discretion, grant a national interest

waiver if the petitioner demonstrates: (1) that the noncitizen’s proposed endeavor has both substantial merit and national importance; (2) that the noncitizen is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *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 first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *See Matter of Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

## II. ANALYSIS

As noted above, the Director concluded that the Petitioner does not qualify for classification as an individual of exceptional ability or, in the alternative, for classification as a member of the professions holding an advanced degree. *See* section 203(b)(2) of the Act. The Director then determined that the record does not establish the Petitioner qualifies for a national interest waiver. However, the record does not clarify why the Director addressed whether the Petitioner may qualify for a national interest waiver if she is ineligible for second-preference classification, as the Director concluded.

Because we nevertheless find that the record does not establish that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest, we reserve our opinion regarding whether the Petitioner satisfies second-preference eligibility criteria. *See* section 203(b)(2) of the Act; *see also 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”); *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).

The Petitioner described the endeavor as a plan “to continue using my expertise and knowledge . . . to build a mechanic services company . . . in the state of Florida.” The Petitioner elaborated that the startup company “will serve as a one-stop shop for various motor vehicle maintenance and repair services, from oil changes and brake pad replacements to engine repair and tire services . . . in the [redacted] area.” The Petitioner submitted a business plan, which, in relevant part, indicates that in addition to employing the Petitioner as the manager, the company will employ two mechanics and mechanic assistants, respectively, and one administrative assistant for a total of six workers in the first year of operations, increasing to seven mechanics, nine mechanic assistants, and two administrative assistants for a total of 19 workers in the fifth year of operations. The business plan further asserts that the company will generate 398 indirect jobs, and it will purchase vehicle parts from suppliers located throughout the United States.

The Director concluded that the proposed endeavor has substantial merit, as contemplated by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. The Director acknowledged evidence including the business plan; however, the Director observed that “the record is not supported by independent and objective evidence demonstrating that the [Petitioner’s] proposed endeavor has

potential implications that are of national importance to the U.S.” The Director acknowledged that the proposed endeavor appears to benefit the Petitioner and her startup company in addition to its “business partners, alliances, clients or customers.” However, the Director noted that the record does not establish how the proposed endeavor will have the type of broader implications contemplated by the first *Dhanasar* prong, significant potential to employ U.S. workers, or other substantial positive economic effects. *See id.* Therefore, the Director concluded that the record does not establish the proposed endeavor has national importance, as required by the first *Dhanasar* prong. The Director further concluded that the record does not satisfy the second and third *Dhanasar* prongs. *See id.* at 888-91.

On appeal, the Petitioner restates information already in the appeal regarding the proposed endeavor, such as the company’s location, and the number and type of workers the company will employ within the first five years of operations. The Petitioner also reemphasizes information regarding her qualifications to manage a vehicle maintenance and repair service company. The Petitioner references copies of publications in the record that provide generalized information regarding business, business management, immigration, and the U.S. economy. The Petitioner further reasserts on appeal that the proposed endeavor has national importance.

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on “the specific endeavor that the [noncitizen] proposes to undertake” and “we consider its potential prospective impact,” looking for “broader implications.” *See id.* at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” or those with “significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

We first note that, although the Petitioner’s emphasis on her qualifications is material to the second *Dhanasar* prong—whether an individual is well positioned to advance a proposed endeavor—it is immaterial to whether the specific endeavor an individual proposes to undertake may have national importance, as contemplated by the first *Dhanasar* prong. *See id.* at 888-91. We next note that evidence in the record, including the information referenced on appeal, that provides generalized information regarding business, business management, immigration, and the U.S. economy does not address the Petitioner, “the specific endeavor that [she] proposes to undertake,” and how the potential prospective impact of the specific proposed endeavor may have the type of broader implications contemplated by the first *Dhanasar* prong. *See id.* at 889-90. Because neither the Petitioner’s qualifications nor the generalized information referenced on appeal are material to determining whether the proposed endeavor may have national importance, we need not address them further.

The proposed endeavor, as described in the record, appears it may benefit the Petitioner, her company, its employees, and its suppliers and customers or clients. However, the record does not establish how the potential prospective impact of the proposed endeavor may have the type of broader implications that may indicate national importance, as contemplated by the first *Dhanasar* prong. *See id.* For example, the record does not establish how the Petitioner’s management of a motor vehicle maintenance and repair shop may have national or even global implications within the field of motor

vehicle maintenance and repair—or any other field—“such as those resulting from certain improved manufacturing processes or medical advances.” *Id.* On the contrary, the Petitioner’s description of “a one-stop shop for various motor vehicle maintenance and repair services, from oil changes and brake pad replacements to engine repair and tire services” seems fungible with ubiquitous one-stop shops for various motor vehicle maintenance and repair services already operating in the [redacted] Florida, area and throughout the United States. Although the Petitioner asserts her motor vehicle maintenance and repair company will employ 19 workers, including herself, in [redacted] Florida, indirectly generating 398 additional, generalized jobs in unspecified locations within its first five years of operations, the record does not establish how that constitutes “significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90. Similarly, although the Petitioner asserts that her company will purchase vehicle parts from suppliers located throughout the United States, the record does not establish how that is distinguishable from the supply-chain practices of all other motor vehicle maintenance and repair companies also located in [redacted], Florida, and throughout the United States, in such a way that one additional participant in this nationwide vehicle-part supply chain constitutes broader implications like substantial positive economic effects. *See id.*

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong. *See Bagamasbad*, 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. As noted above, we also reserve our opinion regarding whether the record establishes the Petitioner is eligible for second-preference classification. *See id.*

### 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 eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.