



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

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

In Re: 28425711

Date: NOV. 15, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a mechanical engineer, 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. 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 as an advanced degree professional, he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.<sup>1</sup> 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

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. 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<sup>2</sup>, grant a national interest waiver if the petitioner demonstrates that:

---

<sup>1</sup> An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. 8 C.F.R. § 204.5(k)(2). We note that the Director incorrectly stated that the Petitioner qualified as a member of the professions holding an advance degree based upon his bachelor's degree in mechanical engineering alone. However, as the Petitioner submitted employment letters showing five years of progressive experience in the field, we agree that he is an advanced degree professional.

<sup>2</sup> See also *Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be 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.

The Director determined the record did not establish eligibility under the second and third prongs of the *Dhanasar* framework. On appeal, the Petitioner contends that the Director “did not consider all of the evidence submitted” with the initial petition and in response to the Director’s request for evidence (RFE). We agree. Although we conduct de novo review, we conclude that a remand is warranted in this case because the Director’s decision is insufficient for review.

While we may agree with the Director’s ultimate conclusion that the Petitioner has not established that a waiver of the required job offer would be in the national interest, an officer must fully explain the reasons for denying a petition in order to allow a petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denial to allow the respondent a meaningful opportunity to challenge the determination on appeal).

The Director determined that “[t]he first prong, substantial merit and national importance, is met.” However, the decision does not sufficiently explain the basis for this determination. In response to the RFE, the Petitioner provided a professional plan and statement indicating that he proposes to work in the United States as a mechanical engineer, specializing in brake systems. Specifically, the Petitioner states that his “focus is to help U.S. organizations expand their domestic and international revenues by developing innovative automotive technology and solutions, enhancing the safety and efficiency of vehicles’ brake systems, and adapting car models according to the restrictions imposed by international regulations and policies regarding safety and pollutant emissions.” In addition, the Petitioner provided letters from professors, recommendation letters, U.S. government national initiatives, and reports regarding the automotive industry in support of the first prong.

While the record may demonstrate the substantial merit portion of the first *Dhanasar* prong, the Director should determine anew whether the record establishes the national importance of his proposed endeavor as required and provide a sufficient explanation for the conclusion.<sup>3</sup> For instance, we note the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, we cannot conclude that the record shows that benefits to the U.S. regional or national economy resulting from the Petitioner’s services as a mechanical engineer would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

---

<sup>3</sup> In determining whether a proposed endeavor has national importance, USCIS must focus on the particular venture, specifically on its “potential prospective impact.” *Id.* at 889. “An undertaking may have national importance, for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.” *Id.* A nationally important venture may even focus on only one geographic area of the United States. *Id.* at 889-90. “An 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.*

For *Dhanasar*'s second prong, the Director concluded that while the record shows the Petitioner "has gained skills and experience," it did not demonstrate that the Petitioner is well positioned to advance the proposed endeavor. However, the decision did not sufficiently describe the evidence reviewed or provide a meaningful explanation of its shortcomings. For example, although the Petitioner submitted patent documentation for a braking and safety system, the Petitioner did not provide evidence that his patent has been granted, has been successfully commercialized, or otherwise drawn interest from potential investors or customers to show progress towards achieving the proposed endeavor. While we agree that the submitted documentation is insufficient to meet this prong, the Director should analyze all of the relevant evidence and adequately explain its deficiencies.

As to the third prong, the Director did not discuss the evidence weighed or address the Petitioner's specific claims. Without a proper evaluation of the factors identified in *Dhanasar*, the Director's determination for this prong was insufficient.

Because the Director's decision did not adequately address the evidence submitted with the petition or in response to the RFE, we will remand the matter. The Director should issue a new decision, containing specific findings that will afford the Petitioner the opportunity to present a meaningful appeal. The Director may request any additional evidence considered pertinent to the new decision.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.