



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

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

In Re: 34836224

Date: DEC. 12, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a senior researcher in the field of artificial intelligence (AI), 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 the record established that the Petitioner qualified for classification, 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 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A U.S. 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.

Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.<sup>1</sup> 8 C.F.R. § 204.5(k)(2).

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<sup>1</sup> Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) 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. 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:

- 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

In denying the petition, the Director concluded that while the Petitioner qualifies as a member of the professions holding an advanced degree, he had not established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. Specifically, the Director determined that the Petitioner’s endeavor did not meet the *Dhanasar* framework’s requirement for national importance, nor did the Petitioner establish that, on balance, waiving the job offer requirement would benefit the United States.<sup>3</sup> Based on our de novo review of the record, we agree that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* framework.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual 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. *Id.* at 889.

On the Form I-140, Immigrant Petition for Alien Workers, the Petitioner listed his occupation in which he is seeking work as “artificial intelligence scientist,” and listed his current job title as a “senior researcher.” He described his job as follows: “I develop medical AI approaches to model hidden early-stage disease risks from large-scale biomedical data using deep learning, CNN, LSTM, Transformer, RFHL and transfer learning methodologies. I serve various companies and collaborate with hospitals to provide medical analytics and risk assessment.” In his Proposed Endeavor & Future Plans in the Field, the Petitioner stated as follows:

“My proposed endeavor is to apply advanced artificial intelligence techniques, cloud computing architectures, early disease risk

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<sup>2</sup> 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).

<sup>3</sup> The Director also found that the Petitioner’s proposed endeavor had substantial merit.

assessment techniques, biomedical big data, and personalized bio-signal modeling to the creation of state-of-the-art disease risk prediction tools for disease detection and classification. To progress this endeavor, I will utilize my extensive experience with efficient, accurate analysis and evaluation of nationally representative health data of millions of patients for rheumatoid arthritis, type 2 diabetes, and chronic kidney disease, among other types of diseases. My work will continue to be circulated in the field through my peer-reviewed publications in journals and conference proceedings.

I intend to pursue a position as a Senior Researcher in the United States. I am most interested in pursuing this position with [redacted] [redacted] My planned research topics include applying AI with natural language communication and analysis of medical records for early disease risk assessment, conducting brain wave analyses, and analyzing gene sequence function.”

The Petitioner submitted peer reviewed journal articles, citing articles, letters of recommendation, his resume, academic records, google scholar profile and publication information, industry reports and articles.

In determining national importance, “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.” *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we determined that the petitioner’s teaching activities, even in a field with substantial merit in relation to U.S. educational interests, did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893.

The Petitioner generally argues on appeal that he has already submitted sufficient evidence of his eligibility for the national interest waiver, including the national importance of his proposed endeavor. In support of these arguments, the Petitioner re-states the description of his endeavor and excerpts his previous statements in the record. For example, the Petitioner points to the academic article on the health effects of chronic hepatitis B published in *Digestive Diseases and Science*, an article on eliminating hepatitis B by the Centers for Disease Control and Prevention, and a commentary article on COVID-19’s impact on the United States as evidence of the national importance of his proposed endeavor, and which he used to “contextualize the value of [his] proposed endeavor.” He contends that the Director incorrectly evaluated the Petitioner’s proposed endeavor and failed to consider all the relevant evidence.

Next, the Petitioner further argues that in analyzing the first prong of the *Dhanasar* framework, the Director improperly applied “record of success” as a criterion, although this criterion is only applicable to the Petitioner’s ability to advance the proposed endeavor under the second prong of *Dhanasar*. Specifically, the Director noted as follows: “The self-petitioner provided citations and contend that the citations are “notable.” However, there is no evidence in the record that distinguishes the citation marked “notable” from other citations in the record. Without evidence to explain or clarify, such as a letter from the individuals that cited the self-petitioner, the reason the citations are notable, it cannot

prove that the self-petitioner's citation record is indicative of a record of success or otherwise demonstrate his proposed endeavor is of national importance." However, although inartful, the Director correctly concludes that the Petitioner did not demonstrate that his proposed endeavor is of national importance under prong one. Thus, we determine that this anomalous reference to "record of success" in the prong one discussion, is harmless error rather than an incorrect application of law or policy.

We recognize the emerging importance of artificial intelligence research and note that the Director found the Petitioner's endeavor to have substantial merit. But the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Dhanasar*, at 889. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. See generally 6 *USCIS Policy Manual* F.5(D)(1), <https://www.uscis.gov/policy-manual>. Simply being employed in an occupation does not constitute an endeavor for the purposes of these proceedings. We note that the Petitioner is already employed by [redacted] in Taiwan, and intends to work for [redacted] in the United States. To the extent his current doctoral research and career goals constitute an endeavor, the record does not contain sufficient evidence describing the Petitioner's endeavor and its future potential impact. For example, two recommendation letters describe the Petitioner's past contributions to artificial intelligence research in the medical field. However, they do not adequately describe the endeavor itself, the Petitioner's future plans, or how they would rise to the level of national importance. Specifically, the letter of recommendation from Dr. [redacted] broadly states the Petitioner's research ". . . has involved the creation of tailor-made artificial intelligence and machine learning solutions for medical purposes." Simply going on record without supporting substantive evidence to support assertions, is not sufficient in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (BIA 1972). While in the other recommendation letter Dr. [redacted] asserts that the Petitioner's work has had significant impact on global public health processes by employing his artificial intelligence methodologies in the detection of rheumatoid arthritis. However, the Petitioner's knowledge, skills, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong.

Although the Petitioner contends that his proposed endeavor outlines the importance of various national and government initiatives, such as the "Advanced Research Projects Agency for Health," to be launched by the Biden Administration, the matter here is not whether these initiatives, as well as the topics of healthcare or similarly related subjects, are nationally important. Rather, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of providing his services as a researcher employed by the US office of his Taiwanese company.

In *Dhanasar*, we 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.* We also stated that "[a]n 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.* at 890. Here, the Director observed that the Petitioner had not demonstrated that the specific endeavor

he proposed had significant potential to employ U.S. workers or otherwise offered substantial positive economic effects on our nation. Nor did the Petitioner show that the benefits to the regional or national economy resulting from his proposed endeavor would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id* at 890. A petitioner’s proposed endeavor can rise to the level of national importance through establishing one or more of the criteria including positive economic effects. In any given set of facts, it is a petitioner’s burden to show by a preponderance of the evidence (more likely than not) that the proposed endeavor is of national importance. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). A petitioner must also support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Below, the Director determined that the national importance impact was limited to the Petitioner and his employer. On appeal, the Petitioner does not address the potential employment of US workers, but re-asserts that his proposed endeavor would “ultimately improve the health and well-being of the US population.” He proffers that the prospective economic effects would result in a reduction in healthcare costs because of disease prevention and early treatment, and a reduction in the consumption of healthcare resources. However, the Petitioner has not sufficiently established that his proposed endeavor in the United States will have national importance under the first *Dhanasar* prong.

Because the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the remaining eligibility requirements for the requested national interest waiver. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make “purely advisory findings” on issues that are unnecessary to the ultimate decision); *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 the applicant did not otherwise meet their burden of proof).

### 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.