



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

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

In Re: 33406893

Date: DEC. 13, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a cybersecurity and information technology (IT) teacher, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or an individual of exceptional ability, 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 the EB-2 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. 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. 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 U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,¹ grant a national interest waiver of the job offer, and thus the labor certification, to a petitioner classified in the EB-2 category if the petitioner demonstrates

¹ *See 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).

that (1) the noncitizen's proposed endeavor has both substantial merit and national importance; (2) 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.

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.

The second prong shifts the focus from the proposed endeavor to the noncitizen. To determine whether the noncitizen is well positioned to advance the proposed endeavor, we consider factors including but not limited to the individual's education, skills, knowledge, and record of success in related or similar efforts. A model or plan for future activities, progress towards achieving the proposed endeavor, and the interest of potential customers, users, investors, or other relevant entities or individuals are also key considerations.

The third prong requires the petitioner to demonstrate that, on balance of applicable factors, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. USCIS may evaluate factors such as whether, in light of the nature of the noncitizen's qualification or the proposed endeavor, it would be impractical either for the noncitizen to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the noncitizen's contributions; and whether the national interest in the noncitizen's contributions is sufficiently urgent to warrant forgoing the labor certification process. Each of the factors considered must, taken together, indicate 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.

II. ANALYSIS

The Petitioner proposes to work in the United States as an IT professional. The Director found that the Petitioner qualifies for the underlying EB-2 classification. The remaining issue to be determined is whether the Petitioner has established that a 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. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

In denying the petition, the Director determined that the Petitioner's proposed endeavor has substantial merit and that he is well-positioned to advance it. The Director determined, however, that the Petitioner did not establish the proposed endeavor's national importance, and that, on balance, it would benefit the United States to waive the job offer requirement. On appeal, the Petitioner argues that the Director either failed to give "due consideration" to the submitted evidence or misinterpreted it.

As a preliminary matter, the Petitioner initially listed his occupation as an information technician and solution architect, stating that he was seeking employment as a solution architect. In response to the Director's request for evidence, the Petitioner described his occupation as a computer and information

systems architect and explained that his proposed endeavor was to collaborate with organizations to generate economic benefits to the United States by implementing information technologies and creating innovative solutions to meet U.S. market demands. In response to the Director's notice of intent to deny, the Petitioner stated that his endeavor was to continue innovating in cybersecurity to protect citizens' identities against theft and prevent fraud. The Petitioner outlined plans to develop "intelligent proactive models" and design "architecture to take proactive actions" in order to neutralize cyber criminals' activities. On appeal, the Petitioner mentions that he had started working as a cybersecurity and IT teacher at the [redacted] School District. The Petitioner clarifies that he is "committed to promoting IT & [c]ybersecurity education to recruit future cybersecurity professionals by training students to earn industry-based certifications." Although the Petitioner has provided varying descriptions of his proposed endeavor, we will adjudicate the appeal with the understanding that he intends to seek employment as an IT professional.

The Petitioner contends that his proposed endeavor will have broader national or global implications within his particular field because it aims to protect the identities of approximately 27 million U.S. consumers from fraud, scams, and theft. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of the Petitioner's work. 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. Here, the Petitioner has not shown that his proposed endeavor of working as an IT professional stands to sufficiently extend beyond his employers to enhance societal welfare on a broader scale indicative of national importance. While the Petitioner claims his endeavor will broadly enhance societal welfare by reducing incidents of fraud scams and identity thefts nationwide, the Petitioner has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance.

The Petitioner argues that his proposed endeavor is "a matter of the National Cybersecurity Strategy" and aligns with national initiatives because it focuses on protecting citizens' identities and aiding the prosecution of fraudsters. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. The relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on "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.* 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 record does not include adequate corroborating evidence, to show that the Petitioner's specific proposed endeavor offers broader implications in the IT and cybersecurity field, enhancements to U.S. societal welfare, or substantial positive economic effects for the country that rise to the level of national importance.

The Petitioner asserts that his proposed endeavor will contribute to economic growth and has the potential to create new employment opportunities. The Petitioner, however, does not provide sufficient details to support these projections or adequately explain how he plans to create employment opportunities for others while seeking work as an IT professional and currently working as a cybersecurity and IT teacher.

The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to his future work, the record does not show that the benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

For the aforementioned reasons, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework. Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility 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).

As the Petitioner has not met the *Dhanasar* analytical framework's requisite first prong, we conclude that he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.