



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

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

In Re: 29886589

Date: FEB. 27, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a psychologist, 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 immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner qualified for the EB-2 classification as a member of the professions holding an advanced degree, but that she 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 (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>1</sup> grant a national interest waiver if the petitioner demonstrates that:

---

<sup>1</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).

- 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.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national 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. *Dhanasar*, 26 I&N Dec. at 889.

The second prong shifts the focus from the proposed endeavor to the foreign national. To determine whether he or she 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; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890.

The third prong requires the petitioner to demonstrate 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. In performing this analysis, USCIS may evaluate factors such as: whether, in light of the nature of the foreign national's qualifications or the proposed endeavor, it would be impractical either for the foreign national 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 foreign national's contributions; and whether the national interest in the foreign national's contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) 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. *Id.* at 890-91.

## II. ANALYSIS

The Director concluded that the Petitioner qualifies 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.

### A. Proposed Endeavor

The Petitioner's initial personal statement described her proposed endeavor as follows:

My proposal is to form a multidisciplinary team of psychologists, doctors, social workers, lawyers, and educators for the development of a pedagogical model for life that aims to re-socialize, pedagogically train and provided educational, psychological, medical, legal and labor accompaniment to adolescents and young adults between the ages of 15 and 5, who are in vulnerable situations (family violence and risk of living on the street) in the United States.

The Director's request for evidence (RFE) stated that "the record lacks a detailed description of the proposed endeavor that clearly describes the undertaking or venture to be accomplished via pertinent details" and sought further information and evidence to support that the endeavor meets the first prong of *Dhanasar*. In response, the Petitioner submitted two separate documents, "Proposed Endeavor Statement" and "Updated Personal Statement" addressing her endeavor more in detail. The Director determined that the following language from the "Proposed Endeavor Statement" dated January 23, 2023, materially changed the Petitioner's endeavor:

My proposed endeavor is to build on my extensive experience with social responsibility, business organization, personnel selection and recruitment processes, as well as in project development, to develop and design novel and unique methodologies with a social and labor focus in order to provide medical and psychological assistance and legal and educational support to vulnerable populations between the ages of 15 and 25.

On appeal, the Petitioner asserts that she only clarified her endeavor as requested by the Director's RFE. Upon de novo review, we agree with the Petitioner that she did not significantly alter or materially change her endeavor when replying to the RFE. Comparing the personal statements submitted in 2022 and the updated statements accompanied the RFE in 2023, we find that the Petitioner has claimed from the beginning that she will form a multidisciplinary team to provide social, educational, legal, and psychological services to the youth and young adults in vulnerable situations. Although the Petitioner revised the wording of her endeavor, the nature of her original endeavor did not change. Therefore, we will withdraw this portion of the Director's decision and review the entire record, including the evidence submitted in response to the Director's RFE, to evaluate whether the Petitioner's endeavor is of national importance.

## B. National Importance

The Director concluded that the Petitioner's endeavor has substantial merit but not national importance under the first prong of *Dhanasar*.<sup>2</sup> On appeal, the Petitioner does not offer any new evidence but contends that she submitted "ample evidence" to demonstrate national importance of her endeavor by a preponderance of evidence standard. The Petitioner states: "[i]t is not inherently necessary to meet each of the possible evidentiary examples provided in the precedent decision in order to prove that a proposed endeavor is of national importance." The Petitioner further asserts that the Director's statement that "no evidence" was submitted to show national importance "rises to the level of an abuse of discretion as officers may not ignore probative, viable evidence submitted in support of a case."

However, to determine whether a petitioner has met her burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, we conclude that the Director weighed all the evidence to evaluate whether the Petitioner had demonstrated, by a preponderance of the evidence, that she meets the first

---

<sup>2</sup> The Director also found that the Petitioner did not meet the second or third prong of the *Dhanasar*'s analytical framework.

prong of the *Dhanasar* framework but determined that the evidence overall lacked probative value, as discussed below.

The Petitioner initially claimed that her proposed endeavor has national importance because it “will address the United States’ urgent need to mitigate the consequences of youth homelessness, such as substance abuse and sexual exploitation, and improve social welfare with a team of highly skilled professionals” and “addresses a matter that has been explicitly supported by the U.S. government through numerous regulations and initiatives.” In supporting her claims, the Petitioner largely relied on reports and articles that provide a general overview of the youth homelessness, including causes and solutions to such problem. However, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. Instead, we focus on the “the specific endeavor that the foreign national proposes to undertake” and consider the endeavor’s “potential prospective impact.” See *Dhanasar*, 26 I&N Dec. at 889.

As the initial filing did not contain specific and persuasive details regarding the proposed endeavor, the Director, in issuing the RFE, asked for “documentary evidence that *supports* the [Petitioner’s] statements” (emphasis added). However, the Petitioner offered additional personal statements instead of submitting independent and corroborating evidence of her specific endeavor’s “potential prospective impact.” In these statements, the Petitioner again claimed national importance of her endeavor based on the general need for addressing homelessness among vulnerable youths. On appeal, the Petitioner cites to the youth homelessness data and declares that “[t]hese staggering numbers speak for themselves and are key indicators of the national implications of the Petitioner’s endeavor to address this crisis.” Here, the Petitioner has shown that youth homelessness is a nationally important issue but did not demonstrate the potential prospective impact of her specific endeavor to such nationally important matter.

The Petitioner also submitted various reference letters with the initial filing and the RFE response. These reference letters, mostly from the Petitioner’s former work colleagues, did not address the endeavor’s specific impact or special methodologies attributable to the Petitioner to solve the youth homelessness. Instead, they generally praised her skills as a human resource professional and her approach to business organization, employee recruitment, and labor practices. Although one reference letter from the Petitioner’s former classmate claims that “[the Petitioner] is recognized in social psychology for the excellent results of her projects with homeless people, single mothers, young people in vulnerable situations and the different problems that affect the population,” the record does not include any independent and objective evidence to corroborate such claims.

The Petitioner asserted that she will “develop and design novel and unique methodologies with a social and labor focus” to support the vulnerable youth population. But the Petitioner has not suggested that her solutions or methodologies somehow differ from or improve upon those already available and in use in the United States, as contemplated by *Dhanasar*: “[a]n 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.* at 889. The Petitioner must support her assertions with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. at 376.

We reviewed the expert opinion from a Colombian economist working for the Development Bank of Latin America (CAF). Although this one-page opinion letter asserts that “I have had the opportunity to analyze in detail the entrepreneurship proposal that [the Petitioner] plans to open in the United States,” the author’s statements are not aligned with the purpose and nature of the Petitioner’s endeavor. For example, the author states that the endeavor “constitutes an important contribution to promoting the competitiveness and productivity of small businesses” and that such endeavor “brings great benefits to the economy because it improves individual productivity and overall productivity by reducing business mortality and the costs of financial capital losses.” Here, the opinion letter appears to discuss improving small businesses, not helping the vulnerable youth population in the United States, as the Petitioner’s endeavor proposes. Where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept it or may give it less weight. *See Matter of Sea, Inc.*, 19 I&N Dec. 817, 820 (Comm’r 1988).

We also reviewed a letter of interest from [redacted] of [redacted] a company providing low-cost immigration services to Latino immigrants. The letter shows that a company is interested in hiring the Petitioner as “an independent consultant in youth vulnerabilities and neglected families” for her experience in “organizational development processes and project consulting, as well as her social responsibility profile.” We also evaluated the letter of intent from the [redacted] [redacted] in New York confirming its intention to partner with the Petitioner to create a multidisciplinary team “for the care of children and young adults in situations of vulnerability.” However, these two letters alone do not corroborate the specific nature or numerosity of projects to support the claims that her endeavor will somehow have a broad impact in the widespread homelessness of the numerous youths in the country.

In *Dhanasar*, we further noted 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.” *Dhanasar*, 26 I&N Dec. at 890. On appeal, the Petitioner claims that “[t]he National Importance of the Petitioner’s endeavor is not centered around its economic effects. Rather the present endeavor meets the criterion of national importance because it will broadly enhance societal welfare.” However, economic impact is one of the factors provided by *Dhanasar* to evaluate the endeavor’s national importance, especially when the Petitioner has not established, as discussed above, that her endeavor will have a broad impact in the industry or field.

In her personal statements, the Petitioner has made several claims of economic benefits, but they are too attenuated to sufficiently show the endeavor’s “substantial positive economic effects.” For example, she stated that her endeavor of “investing in the education and training of young adults will . . . contribute to the country’s economic growth” and providing resources and job training to Latino or Hispanic migrant youths will generate employment “to energize the economy.” We acknowledge that any offer of goods or services has the potential to impact the economy; however, the record does not support the Petitioner’s company or team would operate on such a large scale that would benefit the U.S. economy rising to the level of national importance. Although the Petitioner indicated that in forming the multidisciplinary team and addressing the youth homelessness with multifaceted approaches, she needs to find qualified individuals, create her company, and partner with other nonprofits, but the record does not provide detailed plans for operating her company, i.e., a business plan, or its specific impact, aside from generalized claims and statements.

Based on the foregoing, we conclude that the Petitioner did not establish national importance of the proposed endeavor and does not meet the first prong of *Dhanasar*. Therefore, we decline to reach and hereby reserve the Petitioner's arguments regarding her eligibility under the second and third prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "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, she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.