



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

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

In Re: 27404477

Date: JAN. 11, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a social worker, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. *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, concluding that the record did not establish that the Petitioner qualifies for a national interest waiver. 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.

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.” *Id.* 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 USCIS may, as matter of discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

¹ *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.²

II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. The record supports that conclusion. The remaining issue to be determined on appeal 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.

The Director determined that, while the Petitioner’s endeavor has substantial merit, the Petitioner did not meet the first or third prongs of the *Dhanasar* framework. As a preliminary matter, the Petitioner asserts on appeal that in denying the petition, the Director’s decision “contains numerous erroneous conclusions of both law and fact.” An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(1)(v). Although the Petitioner asserts that she has provided evidence sufficient to demonstrate her eligibility for a national interest waiver, she does not specify, as required, how the Director erred or what factors in the decision were erroneous.

For the reasons discussed below, we agree with the Director that the Petitioner has not sufficiently demonstrated the national importance of her endeavor in order to establish her eligibility under the first prong of the *Dhanasar* analytical 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 national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the individual’s specific endeavor. 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. Further, 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. *Id.* at 889.

The Petitioner, who was previously employed as a social worker in Brazil, intends to continue her work in the United States. She describes her endeavor in a professional plan submitted in response to a request for evidence (RFE), which includes the following:

² *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

With my experience in previous projects, I will work coordinating assistance teams composed of doctors, social workers, nurses, psychologists, physical education teachers, computer teachers, art teachers, music teachers, theater teachers, cooks, heritage guards, cleaning leaders, drivers, administrative assistants, and receptionists. I will plan and execute equipment and product requisitions and create, plan, and execute cultural and sports events.... I will create, plan and execute the Server Central project to optimize public servants' consultations and medical exams to reduce work and illness absences. Given this, the server will not be absent from work and will not cause delays in serving the public/citizen.

A cover letter submitted in response to the RFE—the content of which also makes up a portion of the appeal brief—provides the following description of the Petitioner's endeavor:

Resources that enhance the quality of life can significantly influence population health outcomes. The Petitioner's proposed endeavor will advance the field by implementing these resources, including safe and affordable housing, access to education, public safety, healthy foods, local emergency health services, and environments free of life-threatening toxins.... The Petitioner will address inequities throughout society and empower those who are at a disadvantage.... A combination of expertise and experience allows her to effectively assess, advocate for and develop care plans that improve older adults' lives, impacting their life expectancy and quality of life, and will produce a positive ripple effect in several layers of the U.S. society.... [The Petitioner] will play a vital role in helping individuals facing homelessness by minimizing the effects of homelessness on society.... [The Petitioner's] proposed endeavor will concentrate on giving substance users and their families the support needed to overcome addiction.

Also included in that cover letter—although not present in the brief—is the following additional description of the Petitioner's endeavor:

[The Petitioner] has a comprehensive understanding of Social Work and medical clinic administration in all sectors of this type of business. She will bring her talent to support and manage clinics in the U.S. to improve their revenues, reduce costs, increase efficiency and competitiveness, and as a result, increment the U.S. economy. Her exceptional technical abilities will maximize the efficiency and productivity of U.S. healthcare infrastructure, thus stimulating U.S. health and economy. She will also actively contribute to filling the demand for health-related professionals. By effectively executing the tasks mentioned above, her goal is to apply her knowledge and experience in the industry to solve relevant health issues, identify new business opportunities that generate health and economic growth, and create business solutions and portfolios.

The Petitioner's professional plan and cover letters depict a wide-ranging endeavor that involves her intention to work in the United States in areas where social service activities intersect with healthcare challenges. The plan and letters also offer a vague depiction of her endeavor as a whole; while she cites specific areas of social work that *could* positively impact the healthcare industry, she does not

explain *how* her employment as a social worker would result in an impact of the scope and scale contemplated under the *Dhanasar* framework. For instance, the Petitioner references a “Server Central project” which will “optimize public servants’ consultations and medical exams to reduce work and illness absences,” but the record does not contain sufficient information about the project or how it relates to the Petitioner’s endeavor. The Petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369 at 376.

The Petitioner’s explanation of her endeavor also generally references her intention to influence the healthcare industry; she states, for example, that her “exceptional technical abilities will maximize the efficiency and productivity of U.S. healthcare infrastructure, thus stimulating U.S. health and economy.” Importantly, the Petitioner has not provided adequate information about how the Petitioner, as an individual social worker, will approach such an immense undertaking or provide any other explanation for how she will implement an endeavor of this magnitude; the Petitioner has not demonstrated that her endeavor is a realistic pursuit defined by distinct milestones or outcomes. Here, the Petitioner has not shown that she has developed an endeavor with the potential to have national or global implications within a particular field. And without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to her future work, the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner’s pursuits in as a social worker would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

While the Petitioner’s description of her endeavor is aspirational in the breadth its intended impact, she does not explain how her work will address a national talent shortage or affect the field of social work or the healthcare industry. She does not explain how her work will have a positive impact on entities outside of that of an immediate employer or any individuals to whom she intends to provide social services. The Petitioner cites her intention “to apply her knowledge and experience in the industry to solve relevant health issues.” 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.

The Petitioner emphasizes her knowledge, skills, and work experience on appeal, asserting that she has “an impressive track record of success recovering and managing people and will bring her sophisticated expertise to assist and support the U.S. healthcare system [which will] have a positive impact on the nation.” But the Petitioner’s knowledge, skills, and experience in her field relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. While the Director determined that the Petitioner satisfied *Dhanasar*’s second prong, the issue here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar*’s first prong.

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, as a matter of discretion, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *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 an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We conclude that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver. The petition will remain denied.

ORDER: The appeal is dismissed.