



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

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

In Re: 28819076

Date: JAN. 17, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a logistics business owner, 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. *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 classification as a member of the professions holding an advanced degree, 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.

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 discretion¹, grant a national interest waiver if the petitioner demonstrates that:

¹ *See also Poursina v. USCIS*, No. 17-16579, 2019 WL 4051593 (Aug. 28, 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 the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

II. ANALYSIS

The Director determined 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.

Upon de novo review, we agree with the Director that the Petitioner's endeavor has substantial merit but does not satisfy the national importance element of *Dhanasar*'s first prong. If the Petitioner does not meet the first prong, the evidence is dispositive in finding the Petitioner ineligible for the national interest waiver, and we need not address the second and third prongs.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. We noted in *Dhanasar* 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.

The Petitioner's endeavor is to operate a logistics consulting company, [REDACTED], in the state of Florida "to help supply chain players rethink their business strategy to adjust to demand and comply with regulatory standards." The Director reviewed various evidence on record, including the Petitioner's business plan, business contracts and agreements, articles and reports on the importance of the supply chain industry, letters of recommendation, and expert opinion letters. Thereafter, the Director concluded that the focus of the Petitioner's endeavor is "primarily on retaining clients in need of specific solutions to simplify their ability to move their products in an efficient manner" and the record is insufficient in demonstrating that the Petitioner's "proposed logistics solutions offer national or global implications within the logistics field or the supply chain management industry."

Although the Petitioner asserts on appeal that the Director's decision "contains numerous erroneous conclusions of both law and fact," he does not indicate where the Director misapplied law or policy in the decision. The Petitioner mainly contends that he has previously provided sufficient evidence to show the national importance of his proposed endeavor and reiterates verbatim his legal arguments from his response to the Director's request for evidence (RFE).

The Petitioner claims that we should evaluate the prospective impact of his endeavor based on his past achievements and asserts that he has contributed to success of his clients' businesses by improving their operational efficiency, reducing costs, and increasing customer satisfaction. However, we find

that while his clients may benefit from such consulting services, he has not offered a sufficient explanation and evidence for how such benefit to individual businesses rises to the level of national importance or will impact the field more broadly. Furthermore, the Petitioner's knowledge, skills, education, and experience are considerations under *Dhanasar's* second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue under the first prong is whether the Petitioner has demonstrated the national importance of his proposed work.

The Petitioner also claims on appeal that the "analyzing officer failed to consider the broader implications and ramifications of [the Petitioner's] innovations in the logistics industry which is what the precedent decision [*Dhanasar*] established as sufficient for the first prong of the National Interest Waiver." The Petitioner refers to his business techniques as "innovations" that "have been adopted and recognized on a national scale" but the evidence on record does not support his assertions.

We reviewed the Petitioner's resume and letters of recommendation from his client businesses. The authors of the letters praise the Petitioner's abilities and how he has assisted their businesses. While the recommendation letters evidence the high regard for the Petitioner and his work, they do not provide details on his specific methodology or its impact on the industry overall. The record also contains expert opinion letters that discuss the Petitioner's skills and abilities as a logistics business owner and speculate on how his services can potentially improve business practices, but they do not offer any persuasive detail concerning the Petitioner's proposed endeavor or how his endeavor's impact would extend beyond companies that he will serve.

We also reviewed various reports and articles on growth of the logistics and supply chain industry and the possible talent shortage in the field. We acknowledge that the Petitioner's work is in high demand and assisting businesses in efficient transport of goods has substantial merit. However, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. The relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889.

The Petitioner contends that his services would improve business efficiencies in the United States leading to a significant potential for substantial positive economic benefits, such as "increasing tax revenues to the federal and state governments" and "increasing the funds available to spend on hospitals, schools, roads, and other essential services." The Petitioner further contends that such business growth "translates into new employment opportunities for American workers, which further increase disposable income, thereby increasing consumption and benefitting the U.S. economy as a whole." While any basic economic activity has the potential to positively impact the economy, the record does not provide sufficient evidence regarding any projected U.S. economic impact or job creation directly attributable to his future work. The Petitioner's claims regarding his proposed endeavor's impact are too attenuated to sufficiently show "substantial positive economic effects" as contemplated by *Dhanasar*. *Id.* at 890.

In addition, the Petitioner's business plan makes various financial projections but has not offered evidence to corroborate the contents. The business plan anticipates that the Petitioner's company will reach a total of 17 employees in year five and payroll expenses to increase from \$196,450 in year one to \$928,843 in year five. However, the record does not contain supporting documents to demonstrate

the basis for the business plan's financial and staffing projections, or adequately explain how these projections will be realized. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Accordingly, we find that the record does not demonstrate national importance of the Petitioner's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision and the Petitioner has not demonstrated eligibility for a national interest waiver. As 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 "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, we find 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.