



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

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

In Re: 29424288

Date: JAN. 26, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, an entrepreneur, seeks classification as a member of the professions holding an advanced degree. 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. 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 Nebraska Service Center denied the petition, concluding that the Petitioner qualifies as an advanced degree professional but that the record did not establish that a waiver of the job offer requirement is 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 immigrant 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, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. While neither 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 a matter of discretion,¹ 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.

II. ANALYSIS

The Director found that the Petitioner possesses the foreign equivalent of a bachelor's degree in economics followed by at least five years of progressive experience, and therefore qualifies as an advanced degree professional. *See* 8 C.F.R. § 204.5(k)(2) (a U.S. bachelor's degree or the foreign equivalent followed by at least five years of progressive experience in the specialty is equivalent to a master's degree). As to the proposed endeavor, the Director found that the Petitioner established only its substantial merit. The issues on appeal are whether the Petitioner has established the national importance of the proposed endeavor, whether he is well-positioned to advance it, and whether, on balance, a waiver of the job offer requirement would benefit the United States.

As to the proposed endeavor, the Petitioner's initial cover letter stated (emphasis in original):

[The Petitioner's] **endeavor** is to strengthen small and medium-sized enterprises (SMEs) and promote the spirit of entrepreneurship and self-employment using personalized software, providing entrepreneurial education, promoting publicity, and providing professional staff consultancy among other services. The Petitioner has made progress in pursuing [sic] his endeavor by creating [redacted] in the State of Texas. Through this company, [the Petitioner] will create and strengthen SMEs through an educational program—[redacted] (“Business School” or “Program”). This will allow new SMEs to increase their competitiveness and actively participate in the creation of more and better jobs. The Program will have 40 courses divided into 4 levels. This will have a broad and profound positive economic impact to the U.S. [The Petitioner] will also provide access to his software [redacted] a system that helps SMEs with organization and management.

Although the Petitioner describes establishing his business entity in Texas, the Petitioner's personal statement also states that “the city where this project is to be carried out is [redacted] Florida” and that “an initial model will be made to serve as a base to adjust it and make the last changes that later will be duplicated (cloned) to different geographic areas, cities, and states to cover the entire territory of the United States.” In response to the Director's request for evidence (RFE), the Petitioner submitted a “proposed endeavor statement” which states:

My work in furtherance of my endeavor will continue to support advancements in my field by providing an education program—[redacted] that will be delivered through my company, [redacted] My work done in

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).

furtherance of my proposed endeavor will be subsequently disseminated by providing access to my software [redacted] a system that assists SMEs in their organization and management.

As to the first *Dhanasar* prong, the Director found that the Petitioner's proposed endeavor has substantial merit. However, as to the national importance requirement, the Director noted that the focus of this inquiry is on the specific endeavor, rather than on the importance of the industry, field, or profession in which the individual will work. The Director concluded that the record did not demonstrate that the proposed endeavor stands to sufficiently extend beyond the endeavor itself to the consulting field more broadly at a level commensurate with national importance. The Director also found that the record did not demonstrate the endeavor's potential for substantial positive economic effects. As to specific evidence in the record, the Director discussed the apparent discrepancy in the Petitioner's statement that the company has made progress in the state of Texas, but that the Petitioner also discussed the proposed endeavor's location as [redacted] Florida. Finally, the Director discussed counsel's claims that the Petitioner aims to contribute to the economy in designated "opportunity zones," but concluded that the Petitioner did not sufficiently explain how these zones are related to the proposed endeavor or that there is interest from businesses in these zones.

In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

On appeal, the Petitioner asserts that the Director improperly imposed "a novel or otherwise undefined and arbitrary requirement." The Petitioner also claims that the Director did not consider the totality of the evidence in the record. The Petitioner claims that, if considered under a preponderance of the evidence standard, the record does demonstrate the national importance of the proposed endeavor. The Petitioner also attempts to address the Director's specific statements regarding the opportunity zones and the location of the proposed endeavor. Specifically, the Petitioner contends that while he has "found progress in the marketing of the [redacted] program in the State of Texas," that the focus of the endeavor initially will be in Florida. Additionally, the Petitioner asserts that his updated personal statement sufficiently discusses the "opportunity zones" and his plan to focus his efforts on improving the economic outlook in these zones.

As to the Petitioner's claim that the Director did not consider the totality of the evidence in the record, the Petitioner specifically points to the evidence "from reputable industry and U.S. government sources," such as the American Jobs Plan, U.S. Department of Treasury tax credit programs, the Build Back Better framework, and an article by McKinsey & Company stating that small- and medium-sized enterprises are critical to the economy. The Petitioner states that these articles about small businesses and evidence of U.S. government programs to promote small businesses were not mentioned or analyzed by the Director. The Petitioner asserts that this evidence "clearly identifies that the Petitioner's proposed endeavor is of national [importance]."

Although the Petitioner emphasizes on appeal these articles and government initiatives that discuss the importance of small and medium-sized enterprises, the Petitioner must demonstrate the national importance of his specific, proposed endeavor—to provide consulting services and access to his software program through his business—rather than the importance of the industry or field.² In *Matter of 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.” *Matter of Dhanasar*, 26 I&N Dec. at 889. But the evidence the Petitioner highlights here does not discuss the Petitioner’s proposed endeavor, its potential to impact the field, or otherwise help demonstrate the endeavor’s national importance.

To demonstrate that the Petitioner’s proposed endeavor satisfies the national importance requirement, he must establish the “potential prospective impact” of his work. *Id.* But the record does not include sufficient specific information or evidence to corroborate the Petitioner’s assertions that the prospective impact of the proposed endeavor rises to the level of national importance. Although the Petitioner submitted several personal statements, we conclude that the Petitioner’s assertions in these statements are not sufficiently supported by other evidence in the record for the Petitioner to meet his burden of proof. In *Matter of Dhanasar*, we determined that the petitioner’s teaching activities did not rise to the level of national importance because they would not extend beyond his students to impact his field more broadly. *Id.* at 893. Here, we conclude that the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond the company and its clientele to impact the U.S. economy, entrepreneurship, or small businesses in the United States at a level commensurate with national importance.

Finally, the Petitioner did not demonstrate how his proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. *See id.* at 890. Although the Petitioner asserts the record contains “ample documentation to corroborate the economic benefits of the Petitioner’s proposed endeavor by and through the personal statements” and “[b]oth of these documents contained ample arguments supported by objective documentary evidence to support the assertions therein,” the personal statements do not demonstrate how his particular endeavor would result in substantial economic benefits. Instead, the personal statements discuss industry statistics and make general assertions, for example that Florida is “home state to more than 3 million American SME businesses, the third highest number of SMEs among all states,” and that “my proposed professional efforts can help build and increase competitiveness of various SME business collectives in the U.S., and therefore work in favor and contribute to the country’s economic prosperity, GDP, and the American citizens’ standard of living.” But, other than these general claims that the endeavor will “benefit national initiatives” and “stimulate the business growth,” the Petitioner does not provide specifics regarding how the Petitioner’s endeavor will offer substantial economic benefits. For all these reasons, the record does not establish that, beyond the limited benefits provided to his prospective clients, the Petitioner’s proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. We acknowledge

² The Petitioner’s arguments and evidence relate more to the substantial merit of the proposed endeavor rather its national importance.

the Petitioner's arguments on appeal as to the second and third prongs of *Dhanasar* but, having found that the evidence does not establish the Petitioner's eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prongs. 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 is otherwise ineligible).

III. CONCLUSION

Because the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.