



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

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

In Re: 37080756

Date: FEB. 18, 2025

Appeal of Texas Service Center Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification for the Beneficiary, a lawyer, 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 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 record did not establish that the proposed endeavor was of national importance. The matter is now before us on appeal pursuant to 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 qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (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,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.

Id.

II. ANALYSIS

The Director found that the Beneficiary qualifies as a member of the professions holding an advanced degree. 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, upon de novo review, we agree with the Director that the Petitioner has not sufficiently demonstrated the national importance of the proposed endeavor under the first prong of the *Dhanasar* analytical framework.

A. The Proposed Endeavor

The Beneficiary is an attorney specializing in bankruptcy law. The Beneficiary submitted a statement with the initial petition, in which she discusses her intent to work as a bankruptcy lawyer for individual clients. She discusses her commitment to providing pro bono representation and publication of a “Letter’s Series” to provide insights to debtors. The Petitioner also submitted a letter in the initial petition. He states that he intends to form a partnership with the Beneficiary and noted her work for individual clients.

In response to the Director’s first request for evidence (RFE), the Beneficiary noted her objective to advocate for new student loan forgiveness policy and legislation. She stated that she also intends to raise public awareness through media appearances, publications, and educational events.

The Petitioner’s initial description of the proposed endeavor did not include policy and legislative work. A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm’r 1998). As the *Dhanasar* framework requires an analysis of the substantial merit and national importance of the specific endeavor proposed by an individual, such a change is material to their eligibility for a national interest waiver. Also, a petitioner must meet eligibility requirements for the requested benefit at the time of filing the petition. 8 C.F.R. § 103.2(b)(1). The Beneficiary’s proposal to work on student debt bankruptcy reform and public advocacy submitted for the first time in response to the RFE, cannot retroactively establish eligibility. Accordingly, we will only consider the proposed endeavor as described in the initial filing when conducting our analysis under the *Dhanasar* framework.

¹ *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS’ decision to grant or deny a national interest waiver is discretionary in nature).

B. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

The Beneficiary submitted a statement with the initial petition, in which she discusses her intent to work as a bankruptcy lawyer for individual clients. She discusses her commitment to providing pro bono representation and publication of a Letter Series to provide insights to debtors. The Petitioner also submitted a letter in the initial petition. He states that he intends to form a partnership with the Beneficiary. The evidence provided does not demonstrate that this specific endeavor is of national importance.

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 “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. To evaluate whether the proposed endeavor satisfies the national importance requirement we look to evidence documenting the potential prospective impact of the Beneficiary'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. 26 I&N Dec. at 893.

Here, the Petitioner has not sufficiently established how the Beneficiary's position will have a broader impact on the field beyond their partnership and clients, a significant potential to employ U.S. workers, or substantial positive economic effects, as contemplated by the first *Dhanasar* prong. 26 I&N Dec. at 889. We observe that the functions described in the record show that the Beneficiary's work will help her individual clients and purchasers of her letter series but would not affect bankruptcy and student debt law more broadly beyond these individuals. *See Dhanasar*, 26 I&N Dec. at 889.

The Petitioner contends that the Beneficiary's work is nationally important as it contributes to the reduction of student loan debt and has the potential to benefit millions, through potential precedential decisions. Nevertheless, the Petitioner has not provided sufficient detail regarding the endeavor to explain how the Beneficiary would do so, beyond stating that she would act as counsel for individual clients. The first prong relates to substantial merit and national importance of the “specific endeavor.” *Id.* at 889. An endeavor is more specific than a general occupation and should include details of the types of work a petitioner intends to undertake and describe specific projects and goals. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), <https://www.uscis.gov/policy-manual>. As a comparison, the petitioner in *Dhanasar* demonstrated that he intended to continue research into the design and

development of propulsion systems for potential use in military and civilian technologies such as nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles. *Matter of Dhanasar*, 26 I&N at 892.²

The record does not sufficiently demonstrate national importance either.³ The Petitioner provided her educational and licensing records, her resume, articles and reports, work product from the Beneficiary's cases, student loan forgiveness, and bankruptcy law. We observe that many of the documents that the Petitioner submitted following the initial petition, such as media articles and work completed on behalf of the Beneficiary's clients, originated after the petition's filing. A petitioner must meet all of the eligibility requirements of the petition at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12). The articles and reports provided are of little evidentiary value as they do not address the Petitioner's specific proposed endeavor or how it would have broad implications in the bankruptcy and student loan forgiveness field in a way that implicates national importance.

The remaining evidence in the records consists of educational records and work product. We observe the vast majority of the work product originated after the filing of the petition. 8 C.F.R. §§ 103.2(b)(1), (12). The remaining work product shows that the Beneficiary has engaged in the practice of law in support of her clients. However, attorney work product for individual cases, such as what the Petitioner presents, points to past accomplishments and experiences, not the specific endeavor's potential impact in the field, as it only represents aspects of a few individual cases. Typically, this type of evidence is more appropriate for the second prong when determining if the petitioner is well-positioned to advance the proposed endeavor. *Dhanasar*, 26 I&N Dec. at 890.

In the same way that *Dhanasar* finds that a classroom teacher's proposed endeavor is not nationally important because it will not impact the field more broadly, we find that the record does not establish that the proposed endeavor will sufficiently extend beyond the Beneficiary's clients to affect the region or nation more broadly. 26 I&N Dec. at 893. The Petitioner has not shown that benefits to the regional or national economy resulting from the undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

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).

² We also observe that the Petitioner references two non-precedential decisions in support of the Beneficiary's case. Non-precedential decisions do not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c).

³ While we may not discuss every document submitted, we have reviewed and considered each one.

III. CONCLUSION

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

ORDER: The appeal is dismissed.