



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

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

In Re: 21188272

Date: JUNE 10, 2022

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a business analyst, 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 Nebraska Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We agreed with the Director and dismissed the Petitioner's appeal. He has filed a motion to reconsider our decision. With the motion, the Petitioner submits a brief asserting that he is eligible for a national interest waiver.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon review, we will dismiss the motion to reconsider.

I. LAW

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. ANALYSIS

In our December 2021 decision, we concluded that the Petitioner had not established the national importance of his proposed endeavor, and thus had not demonstrated eligibility for a national interest waiver under the first prong of the analytical framework set forth in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).¹ We explained that the Petitioner had not shown the specific

¹ *Dhanasar* states that after a petitioner has established eligibility for EB-2 classification, USCIS may, as matter of

endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. We also determined that the Petitioner had not demonstrated that his proposed endeavor stands to sufficiently extend beyond his employer(s) and/or clients to impact his industry more broadly at a level commensurate with national importance. In addition, we noted that the Petitioner's documentation did not show that the particular work he proposes to undertake offers original innovations that contribute to advancements in business analysis or otherwise has broader implications for his field. For all these reasons, we concluded that the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework.

On motion, the Petitioner contends that he has demonstrated the national importance of his proposed endeavor under the preponderance of evidence standard and that our appellate decision was in error because we imposed a "stricter standard of proof." With respect to the standard of proof in this matter, a petitioner must establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). In other words, a petitioner must show that what he claims is "more likely than not" or "probably" true. To determine whether a petitioner has met his burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). In our appellate decision, we analyzed the Petitioner's documentation and weighed his evidence to evaluate whether he had demonstrated, by a preponderance of the evidence, that he meets the first prong of the *Dhanasar* framework.

The Petitioner asserts that we disregarded the "concrete projection of the benefits [the Petitioner] could offer the U.S." as set forth in his "Professional Plan & Statement" and his plans for "offering business consulting services to American companies." Regarding the Petitioner's claims relating to the benefits he could offer our nation, he presented two "Professional Plan & Statement" documents dated December 2019 and February 2021. His December 2019 Professional Plan & Statement asserted:

I intend to work in the U.S. as a Business Analyst with an in-depth knowledge of the Brazilian oil and gas, consumer products and real estate industries. More generally, I can offer business consulting management services, business intelligence and optimization strategies to U.S. companies in need of expert advice in operations and business management. Also, I can provide leadership in entrepreneurship, strategic planning and business management to help companies reach more customers, become more profitable, create more jobs and attain a greater market share.

....

I will contribute my knowledge and experience to provide high-quality business management consulting services to companies in the U.S. This will allow them to develop better quality business operations in the U.S.

discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national's proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) 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. *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

In his February 2021 Professional Plan & Statement, the Petitioner stated:

I plan . . . to contribute to U.S. societal needs and economic prosperity through my role as an Executive. . . . I can offer business consulting management services, business intelligence and optimization strategies to U.S. companies in need of expert advice in operations and business management. Also, I can provide leadership in entrepreneurship, technology, strategic planning and business management to help companies reach more customers, become more profitable, create more jobs and attain a greater market share.

I will . . . help American companies become more profitable, productive and sustainable. As an executive, I will contribute to commercial development, the creation of jobs and projects that generate new wealth.

The Petitioner argues on motion that his proposed endeavor stands “to generate substantial benefits to the United States,” enhance “the national economy,” and produce “substantially positive effects.” In determining national importance, the relevant question is not the importance of the field, 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 Petitioner’s proposed endeavor satisfies the national importance requirement we look to evidence documenting the “potential prospective impact” of his work. While the Petitioner’s statements reflect his intention to provide valuable business analysis and consulting services for his future U.S. employers and/or clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. 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. Here, the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his prospective employers or business clientele to impact his industry or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the U.S. regional or national economy resulting from his business endeavors would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

In addition, the Petitioner maintains that we disregarded his business skills, experience, and expertise in the areas of “Sales, Marketing, and Business Administration.” The Petitioner’s expertise, skills, and experience in his 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. The issue before us is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar*’s first prong.

The Petitioner further contends that we overlooked “industry reports and articles emphasizing the severe shortage of qualified professionals like him in the United States.” In our appellate decision, we explained that we were not persuaded by the Petitioner’s arguments that his proposed endeavor has national importance due to the shortage of professionals. The Petitioner has not established that his proposed endeavor would impact or significantly reduce the claimed national shortage. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner’s arguments on motion do not establish that we erred in concluding that he had not satisfied the “national importance” requirement of *Dhanasar*’s first prong. The Petitioner therefore has not met the requirements for a motion to reconsider as he has not shown that we erred in our previous decision based on the record before us on appeal. In addition, the motion to reconsider does not establish that our dismissal of his appeal was based on an incorrect application of law, regulation, or USCIS policy.

III. CONCLUSION

The Petitioner has not shown that we erred as a matter of law or USCIS policy in dismissing his appeal. Consequently, we have no basis for reconsideration of our appellate decision. The Petitioner’s appeal therefore remains dismissed, and his underlying petition remains denied.

ORDER: The motion to reconsider is dismissed.