



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

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

In Re: 23414548

Date: MAY 02, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree and/or an individual of exceptional ability, 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 the record did not establish the Petitioner's eligibility for a national interest waiver under the Dhanasar framework. 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, 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 discretion¹, 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.

II. ANALYSIS

The Petitioner provided sufficient evidence to establish he qualifies for the EB-2 classification. Therefore, the remaining issue is whether the Petitioner established eligibility for a national interest waiver under the Dhanasar framework. While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

The first prong, substantial merit and national importance, focuses on the specific endeavor 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 whether the proposed endeavor has national importance, we consider its potential prospective impact. Dhanasar, 26 I&N Dec. at 889.

The Petitioner proposes to work as an entrepreneur in the information technology (IT) field. He plans to start his own business, which will enable him to:

- Provide IT services to U.S. companies;
- Determine and formulate policies and provide overall direction of companies or private and public sector organizations;
- Work as a consultant to develop technology teams and systems;
- Develop and offer short-term technical and practice-oriented nonacademic courses;
- Train low-skilled, possibly unemployed, workers in economically depressed areas;
- Consult foreign businesses as they seek to introduce their products and services into the U.S. market; and
- Facilitate commercial transactions between the United States and Latin America, thus increasing foreign direct investment (FDI) in the United States.

In Dhanasar, we held that a petitioner must identify “the specific endeavor that the foreign national proposes to undertake.” Id. Here, the Petitioner has not done so. His proposed endeavor involves a variety of services in addition to running his own business. He has not explained how he will divide his time between the various facets of his proposed endeavor. Without this detail, the Petitioner obfuscates the endeavor's prospective impact. Documents in the record mention the Petitioner will offer benefits to the United States through foreign direct investment, as well as that he could offer benefits to businesses conducting or planning to conduct business in Brazil. While we acknowledge these claims, the Petitioner has not sufficiently explained how his business would involve these activities to such an extent that it impacts the field of IT or the nation as a whole. Similarly, he has not sufficiently described how he will teach and train others while maintaining his business and providing IT services to other companies. Even if he had explained this, it would still be insufficient to establish the national importance of the proposed endeavor.

The Petitioner has not established that the benefit of his services will extend beyond his clients and company. He submitted little evidence to establish how his specific endeavor would influence the IT

field or otherwise impact the nation. For instance, the record does not reflect that his services are different, better, or cost less than other IT services, nor has the Petitioner presented evidence to establish his services would be available on a scale that rises to the level of national importance.

The Petitioner referenced a nationwide shortage of IT and Science, Technology, Engineering, and Mathematics (STEM) professionals, the monetary value of the IT industry, its growth potential, and the importance of IT work to the nation's economy. In support, he submitted articles and reports that provide helpful background information on these matters. However, none of the reference materials discuss the Petitioner's specific proposed endeavor. We acknowledge the importance of IT and STEM fields, and also of addressing the nation's shortage of IT professionals; however, the Petitioner has not sufficiently explained how his work as an entrepreneur would resolve the shortage or produce an impact rising to the level of national importance. In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; but rather, "the specific endeavor that the foreign national proposes to undertake." See *id.* Other relevant questions are what the broader implications of the proposed endeavor are and how the endeavor may have national importance, for example, because it has national or even global implications within a particular field. Here, the Petitioner improperly relies upon the importance of the industry as sufficient to establish the national importance of his proposed endeavor.

We reviewed the Petitioner's business plan in which he described his mission and the services he will provide. Although he provided projections in revenue and job creation, the Petitioner has not offered a sufficient foundation or corroborating details to support the projections. As such, these figures appear to be little more than conjecture. The Petitioner asserted he will bring benefits to areas of economic depression. However, he has not indicated which areas he will reach or how the benefits of his endeavor would reach these areas. For instance, the Petitioner has not presented evidence showing that the physical location of his business will be in an economically depressed area such that it might readily provide a source of jobs, nor has he demonstrated that he will predominantly or exclusively hire and serve individuals living in those areas. Therefore, we cannot conclude the Petitioner's endeavor offers substantial positive economic effects in an economically depressed area.

Although the Petitioner highlighted that his endeavor would positively impact the economy and job creation, he has not offered sufficient evidence to corroborate these claims. We acknowledge the Petitioner's argument that through his services, the companies that hire him can be more productive in providing services to others and that the benefits of a productive, well-functioning business extend beyond the individual organization. He also explained that his services will make his clients more efficient such that their businesses will positively contribute to the economy as well. However, the record lacks sufficient evidence to establish a strong connection between the proposed endeavor activities and positive economic changes or job creation on a level commensurate with 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. Similarly, the proposed endeavor may very well positively impact the individuals and businesses that engage the Petitioner for his services, but the evidence does not suggest the Petitioner's services will be available broadly to the public or on a level that creates national or global implications in the IT field. It is insufficient to claim an endeavor has national importance or will create a broad impact without providing evidence to corroborate such claims. The Petitioner must support his assertions

with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

In his advisory opinion, [] states the Petitioner's endeavor has national importance because the additional business-to-business activity would create the indirect effect of new jobs and improved wages and salaries, which would then allow for increased household spending and consumption. [] opined that the Petitioner's endeavor will also have a multiplier impact on the areas of income and revenue. He explained that the increased business activity would create more business income, which leads to more state and federal tax revenue, as well as personal income. While we acknowledge and understand how basic economics functions, the record does not evidence a sufficiently direct connection between the proposed endeavor activities and either job creation, tax revenue, or increased household spending. 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 the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

We reviewed the support letters from the Petitioner's former colleagues and conclude they do not sufficiently support a finding of the Petitioner's eligibility under the first *Dhanasar* prong. The authors of the letters discussed the results he achieved for his clients and how the Petitioner performed well in the past. Many authors commented that the Petitioner impacted his field and even the way Brazil conducts business. Specifically, some authors described how the Petitioner digitized advertising content and provided a searchable database for the companies that hired him, while others wrote that he changed the way the whole advertising market works. Nevertheless, the authors did not sufficiently explain how the Petitioner's performance, or the results he achieved, extended beyond his employer and the specific parties involved to impact the field more broadly.

As the Director explained, "the testimonial letters offer no detail about the extent of the petitioner's claimed achievements . . . or how, exactly, the petitioner has played a significant role in the work of others in the field." The authors provide generalized and conclusory statements about the Petitioner's impact without offering independent and objective evidence to corroborate their claims. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. See *1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters so as to determine whether they support the petitioner's eligibility. *Id.* See also *Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact").

In addition, the authors praised the Petitioner's personal and professional qualifications which pertain to the second prong of the *Dhanasar* framework. However, the Petitioner's expertise acquired through his employment relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the specific endeavor that the Petitioner proposes to undertake has substantial merit and national importance under *Dhanasar*'s first prong.

On appeal, the Petitioner contends the Director did not consider certain pieces of evidence and failed to apply the correct standard of proof when reviewing the evidence. In support, he relies primarily upon the evidence and arguments previously submitted. However, for the reasons explained, the record does not establish the national importance of the proposed endeavor as required by the first prong of the Dhanasar precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of his eligibility under the second and third prongs outlined in Dhanasar would serve no meaningful purpose.

III. CONCLUSION

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 "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).

As the Petitioner has not met the requisite first prong of the Dhanasar framework, we conclude he has not established eligibility for a national interest waiver. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.