



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

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

In Re: 28082838

Date: SEP. 06, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur in the field of information technology, 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 immigrant 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 qualifies 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. 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 discretion<sup>1</sup>, grant a national interest waiver if the petitioner demonstrates that:

---

<sup>1</sup> *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 found that the Petitioner qualifies as a member of the professions holding an advanced degree.<sup>2</sup> 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.

The Petitioner initially stated on Form I-140, Immigrant Petitioner for Alien Workers, that his proposed employment is an entrepreneur, and his personal statement describes his endeavor as follows:

I seek employment as an independent business owner in the field of data science, seeking to offer my services across the US. This field has been subject of important US government initiatives and clearly plays an overall important role in the US economy while experiencing a dramatic shortage of professionals.

The Petitioner's initial description of the proposed endeavor does not provide any other details beyond his intention to be an entrepreneur. The Petitioner's initial evidence consisted of his academic records, resume, membership in the American Marketing Association, certificates of learning, and four reference letters. The Director's request for evidence (RFE) sought further information and evidence that the Petitioner meets each of three *Dhanasar* prongs.

In response to the Director's RFE, the Petitioner clarified that his endeavor is to work as "an independent business owner in the field of INFORMATION TECHNOLOGY in the United States" and introduced a business plan for his own company, [REDACTED] located in [REDACTED] Florida. In the business plan, the Petitioner stated that he will "help mostly small businesses benefit from the use of cutting-edge data analysis tools and techniques."

The Director concluded that the Petitioner's endeavor has substantial merit but not national importance under the first prong of *Dhanasar*.<sup>3</sup> The Director determined that the record does not demonstrate how the Petitioner's endeavor stands to have a broader impact on his field or would offer substantial economic benefits to the region where it operates or to the nation. We agree with the Director's decision.

On appeal, the Petitioner makes broad assertions that he has established eligibility for all three prongs of *Dhanasar*. Regarding the first prong, the Petitioner contends that "his work has national importance for the United States, and USCIS erred in finding otherwise." However, the Petitioner's brief generally addresses the importance of data analytics and information technology in small business operations and does not identify specific errors in the Director's decision or offer any new evidence.

---

<sup>2</sup> The Director made this finding in the request for evidence issued on August 26, 2022.

<sup>3</sup> The Director also found that the Petitioner did not meet the second or third prong of the *Dhanasar*'s analytical framework.

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. We recognize the value of information technology and importance of data analytics to businesses; however, merely working in an important field is insufficient to establish the national importance of the proposed endeavor.

*Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” and endeavors that have broader implications, such as “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

The Petitioner submitted letters of support discussing his knowledge, skills, and work experience. However, these documents relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. Additionally, these letters do not address how the Petitioner’s proposed endeavor stands to sufficiently extend beyond himself and his clients to impact the field or suggest that his data analytics skills somehow differ from or improve upon those already available and in use in the United States, as contemplated by *Dhanasar*: “[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.” *Id.* at 889.

The Petitioner also submitted a business plan for his consulting company and asserted that his company will “stimulate the U.S. economy by creating new jobs and increasing the amount of taxes paid.” In the plan, the Petitioner stated that his company “currently employs independent contractors of various IT profiles” but will expand by employing “numerous professionals, including Data Analysts, Data Scientists, machine learning Engineers, Web Developers, Cloud Architects, and Software Developers, to name a few.” The business plan projects a staff increase from 13 employees in 2023 to 91 employees in 2027 and total payroll expenses increase from \$1,108,000 in 2023 to \$8,838,652 in 2027. It also estimates that the company’s net profit will increase from \$43,232 in 2023 to \$4,906,321 in 2027.

However, the record does not elaborate on the extent to which his company will have “substantial positive economic effects.” *Id.* at 889-90. The Petitioner has not provided any corroborating evidence of the nature or numerosity of clients or clients’ projects to support the claims he has made in the business plan. The record contains only two consulting contracts, one with a company located in the United Kingdom, and another contract with a company located in California. Moreover, the Petitioner on appeal states that the company yielded a total income of \$4,252.10 and a profit of \$3,701.32 in November 2022, significantly below the net income of \$43,232 projected for 2023. The Petitioner has not provided persuasive details to corroborate his claims concerning how he intends to grow his company. The business plan by itself does not sufficiently demonstrate the basis for its 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.

We acknowledge that any offer of goods or services has the potential to impact the economy; however, the record does not support the Petitioner's consulting business in [REDACTED] Florida would operate on such a large scale that would benefit the U.S. economy or the information technology industry rising to the level of national importance. In addition, the record does not demonstrate that the company will provide substantial impact to any economically depressed areas in Florida.

In summation, 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. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's arguments regarding his eligibility under the second or third prong. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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 conclude that he has not established he is eligible for or otherwise merits a national interest waiver. The appeal will be dismissed for the above stated reasons.

**ORDER:** The appeal is dismissed.