



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

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

In Re: 28536727

Date: SEP. 21, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a logistics coordinator, seeks classification as a member of the professions holding an advanced degree. *See* 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, 8 U.S.C. § 1153(b)(2)(B)(i). 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 Texas Service Center denied the petition, concluding that although the Petitioner qualified for classification as a member of the professions holding an advanced degree, he 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. Next, a petitioner must then demonstrate 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 that USCIS may, as matter of discretion,¹ grant a national interest waiver if the petitioner shows:

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 Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. Accordingly, the remaining issue to be determined on appeal 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 first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. *See 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

The Petitioner, a logistics coordinator, provided a personal statement explaining his proposed endeavor as follows:

Supply chain management, physical distribution, materials management, and even rhocrematics are names . . . given to the field of business logistics. Regardless of the name, business logistics is a vital area of management within list firms, whether they are manufacturing or service firms. Logistics has been defined . . . as the process of planning, implementing, and controlling the efficient, cost-effective flow and storage of raw materials, in-process inventory, finished goods and related information from point of origin to point of consumption for the purpose of conforming to customer requirements. The present scope of logistics has expanded to cover purchasing, distribution, inventory management, packaging, manufacturing, and even customer service. My proposed endeavor will develop these functions, critical to business success and overall prosperity.

The stated mission for business logistics is to get the right goods or services to the right place, at the right time, and in the desired condition, while making the greatest contribution to the firm. These are the immense benefits that my proposed endeavor will provide the U.S., bringing positive economic effects to your nation, including job creation. My work managing logistics will empower U.S. businesses to boost profit, cut costs, and increase efficiency, leading to greater customer satisfaction. My proposed endeavor will give firms the opportunity to reposition their logistics networks for lower costs and higher customer service. Through efficient logistics management, businesses can reduce costs without downsizing their workforces, lowering workers' salaries, or cutting employee benefits. By providing all of these economic benefits, my previous endeavor will positively impact the U.S.

The Petitioner also submitted copies of his academic credentials, industry articles and reports, and letters of recommendation in support of his eligibility.

The Director determined that the Petitioner's initial filing did not establish that the proposed endeavor had national importance. Specifically, the Director determined that the Petitioner did not demonstrate that his endeavor would offer original innovations to the logistics field or impact the field more broadly, and issued a request for additional evidence.

In response, counsel for the Petitioner submitted a letter summarizing the Petitioner's previously submitted evidence, noting that his personal statement, letters of recommendation, and industry articles and reports were sufficient to establish that the proposed endeavor had national importance. In addition to the evidence summaries, the response included a new letter of recommendation from a former classmate of the Petitioner.

In denying the petition, the Director concluded that although the proposed endeavor had substantial merit, the record contained insufficient evidence to demonstrate that the Petitioner's work would impact the regional or national population at a level consistent with national importance. The Director determined that the Petitioner's evidence did not convey an understanding of how his proposed activities as a logistics coordinator stand to have a broader impact in the field. On appeal, the Petitioner claims that the Director's decision was erroneous, and asserts that the Petitioner's personal statement, probative research, and recommendation letters meet the national importance requirements under *Dhanasar*'s first prong.

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. Generally, we look to evidence documenting the "potential prospective impact" of a petitioner's work. The Petitioner submitted articles and reports addressing the benefits of logistics and the importance of supply chain management and integration. We recognize the value of logistics and supply chain management as a means of determining competitiveness and profitability in the business sector; however, merely working in an important field is insufficient to establish the national importance of the proposed endeavor.

Similarly, the Petitioner's personal statement emphasizes the value of logistics and his proposed role as a logistics coordinator instead of focusing on the prospective impact of his specific endeavor. The Petitioner discusses the benefits of logistics, highlighting how effective logistics management can "empower U.S. businesses to boost profit, cut costs, and increase efficiency." However, the Petitioner does not point to any corroborating evidence that would directly link his specific endeavor to potential prospective impacts in the logistics field or the overall economy's growth. The Petitioner must support his assertions with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner also provided recommendation letters from former colleagues and classmates, who attest to his work ethic and the quality of his work as a logistics coordinator. Although the letters praise his qualifications and professional accomplishments, the Petitioner's skills, expertise, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." See *Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the specific endeavor he proposes to undertake has national importance under *Dhanasar*'s first prong.

We noted in *Dhanasar* that “we look for broader implications” of the proposed endeavor and 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. Although the Petitioner recounts the value and importance of logistics and supply chain management and their general impact on business growth, *Dhanasar* requires us to focus on the “the specific endeavor that the foreign national proposes to undertake,” not the importance of the field, industry, or profession in which the individual will work. *Id.* at 889.

Further, the Petitioner did not provide evidence to demonstrate how his proposed endeavor as a logistics coordinator will have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. The Petitioner did not identify the specific area where he intends to provide his services; therefore, he did not demonstrate that his endeavor would provide substantial economic benefits to a specific region or the U.S. economy more broadly at a level commensurate with national importance. Nor did he offer evidence that the area where he will provide his services is economically depressed. The record contains insufficient evidence to demonstrate that his proposed endeavor would employ a significant population of workers, offer the target region or its population a substantial economic benefit through employment levels, business activity, or tax revenue, or would substantially impact job creation and economic growth, either regionally or nationally. Without such evidence, we cannot evaluate the proposed endeavor’s impact on job creation or its overall economic impact. As such, the Petitioner has not supported a claim that his proposed endeavor stands to sufficiently extend beyond his clients or employers to impact the logistics field at a level commensurate with national importance.

Finally, we note the Petitioner’s submission of two of our non-precedent decisions on appeal, in which each petitioner sought classification as an individual of extraordinary ability and we sustained the appeals. First, these two petitioners sought employment-based first preference (EB-1) immigrant classification, which is different from the EB-2 immigrant classification sought by the Petitioner in the instant case. Second, neither decision was published as a precedent and, therefore, these decisions do not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy.

In summation, the Petitioner has not established that his proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* 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 demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.