



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

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

In Re: 33345789

Date: SEPT. 13, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an operating manager of a supply chain and logistics company, seeks second preference immigrant classification as an advanced degree professional or as an individual of exceptional ability, 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 Texas Service Center denied the petition, concluding that the record did not establish the Petitioner's eligibility for the requested national interest waiver. 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

Once a petitioner demonstrates eligibility for the underlying EB-2 classification, 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 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.

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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

II. ANALYSIS

The Director determined that the Petitioner qualified for the EB-2 classification as an advanced degree professional because he submitted sufficient evidence of the equivalent of a bachelor's degree in business administration and five years of progressive work experience. However, the Director then determined that the Petitioner did not establish eligibility for a national interest waiver under the *Dhanasar* framework. For the reasons set forth below, we agree that the Petitioner has not established the national importance of his proposed endeavor and we will dismiss the appeal.

The Petitioner states he plans to start a logistics consulting business in the United States to provide economic growth and employment opportunities for U.S. workers. With his petition he submits various documents in support, including business plans, his resume, educational documents, numerous reference letters, as well as several industry related reports and articles.

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

With respect to the first prong, the Director determined that the Petitioner's endeavor had substantial merit, but concluded further that he did not establish his endeavor was of national importance as contemplated under the *Dhanasar* framework because the evidence submitted did not demonstrate that the Petitioner's endeavor would have a broad enough impact to be considered nationally important. In making this determination, the Director indicated he reviewed the Petitioner's statements and marketing reports. The Director also expressed concern with the Petitioner's failure to submit financial statements or other evidence to show past performance and his ability to guide his proposed endeavor to success. The Director acknowledged the recommendation letters submitted as part of the record, but found these letters, "cannot substitute for the benchmarks of success as demonstrated by quantitative results"

On appeal, the Petitioner does not submit additional evidence. He claims that the Director's decision, as well as the request for evidence issued by the Texas Service Center, made conclusions regarding evidence being insufficient without explaining why. He describes how this lack of detail regarding why a piece of evidence was deemed insufficient took away his ability to meaningfully appeal the Director's decision. He asserts further that the Director's statements regarding the impacts of his proposed endeavor having an "overall impact on the economy," implies that to be nationally important his endeavor needs to impact the entire U.S. economy. The Petitioner correctly explains how when assessing national importance any potential impact should not be judged by geographical breadth alone, but broad implications, to even one geographical area can be nationally important. *Dhanasar* at 889.

As stated above, 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). Thus, the Petitioner

must submit sufficient evidence to prove their eligibility for the benefit sought. Although every piece of evidence is considered in our review, the Director is not required to state exactly what is insufficient about each piece of evidence. Instead, each piece of evidence is analyzed and considered in its totality to determine, overall, whether the Petitioner has met their burden in establishing they are eligible for the benefit. Furthermore, the Director's decision was not silent as to the reasons for her finding that the proposed endeavor was not nationally important. Here, the decision indicates that the Director reviewed the evidence submitted and found it insufficient in showing the Petitioner's endeavor to be nationally important because it did not show the broad implications of the endeavor and did not include evidence of past successful performance.

First, we acknowledge that the language used by the Director in stating that the endeavor did not have an "overall impact on the economy," could be read as implying that the endeavor needed to impact the entirety of the U.S. economy. However, this statement could also be read as reflecting that the Petitioner did not show his endeavor had broad enough impacts generally to be considered nationally important. In addition, the Petitioner reflects on appeal the correct standard and appears to understand that his endeavor could show broad implications to a geographic region or area and be considered nationally important. Thus, we do not find that this ambiguous phrase took away the Petitioner's meaningful opportunity for an appeal. Second, the issue regarding past successes is more appropriate for the second prong of the *Dhanasar* framework, whether the individual is well-positioned to advance their proposed endeavor, and will not be discussed further in regard to whether the proposed endeavor is of national importance.

The Petitioner asserts that his proposed endeavor is of national importance because it will address the complexities of procurement and international trade, supporting a national initiative to secure and strength the U.S. supply chain. The Petitioner also indicates that his endeavor will contribute to economic growth by creating opportunities for employment and revenue growth directly through his company and indirectly through his client companies.

Upon de novo review, we agree with the Director that the record does not establish, by a preponderance of the evidence, that the Petitioner's proposed endeavor would have national importance. In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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. 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. To evaluate whether the Petitioner's proposed endeavor will have a broad impact we look to evidence substantiating the "potential prospective impact" of his work.

The Petitioner claims his endeavor involves creating a supply chain in the United States that is more innovative and resilient. He emphasizes that strengthening and securing the U.S. supply chain is part of a national initiative. We do not disagree that strengthening and securing the U.S. supply chain is a

national initiative, however the record does not show how the Petitioner's endeavor will support a more innovative and resilient supply chain. For instance, this national initiative centers around strengthening the supply chain of essential materials in goods to the U.S. market. Here, the Petitioner's proposed endeavor shows he will provide consulting services for four clientele companies who import and sell products such as t-shirts, entertainment merchandise, baseball caps, and car battery components. These are not essential goods and materials as described in the national initiative presented in the record. Furthermore, although the Petitioner describes how he aids companies with logistics and trade, the Petitioner does not show that he has innovated- creating ways in which his methods would contribute to a more secure and strong supply chain of essential goods and materials into the United States.

In addition, the Petitioner has also not demonstrated that the specific endeavor he proposes to undertake would have significant potential to employ U.S. workers or have other substantial positive economic effects. Although the Petitioner plans to create employment opportunities in Florida, he has not shown that his company's future staffing levels, five employees in the first year and 16 employees by year five, stands to provide substantial economic benefits so broadly as to be nationally important. Similarly, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake will offer other substantial positive economic effects for the country. While the Petitioner claims he will generate over two million in revenue by year five of his operations, he does not sufficiently support these projections with objective data as necessary to demonstrate that the 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 affirm the Director's decision that the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework. For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

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 as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third prongs. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); *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).

ORDER: The appeal is dismissed.