



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

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

In Re: 24834017

Date: APR. 17, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a professor of economics, 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. While the Director concluded that the Petitioner qualified as an advanced degree professional, they further determined he did not demonstrate the substantial merit of his proposed endeavor or that it would be in the national interest of the United States. The Director also concluded that the Petitioner did not establish that he was well positioned to advance his proposed endeavor or that it would be beneficial to the United States to waive the requirements of a job offer and labor certification. The matter is now before us on appeal.

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

If 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 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, a native and citizen of Argentina, indicated that he was a member of the professions holding an advanced degree because he had earned a doctorate in business and administration, a master's degree in strategic marketing, and a bachelor's degree in public accounting. The Petitioner stated that he is employed at an Argentine university as a professor of economic sciences.

The Petitioner explained that he planned to work as a "special business consultant" in the United States building on a marketing study he had conducted related to small and medium sized Latino owned businesses, noting that he planned to develop "200 companies and entrepreneurs" and "university programs." The Petitioner indicated in an "investigation report" that his "contribution to society" would be to "assist companies to achieve that they are unblocked and continue in the process and reach the next [stage] of MATURITY" using his "techniques" and "restructuring." The Petitioner further stated that he would transmit to clients his "Approach and Management Techniques" to "assist companies that have been blocked and cannot leave the EMBRYONIC stage." The Petitioner also provided a "market research paper" explaining that the mission of [REDACTED]

[REDACTED] was to advise organizations to achieve a competitive position in the market by training their "human capital" to acquire more knowledge and skills through seminars, tests, games, books, programs, and manuals.

Later the Director issued a request for evidence (RFE), asking the Petitioner to submit a detailed description of his proposed endeavor, its substantial merit, and how it would be of national importance to the United States. In response, the Petitioner stated that his investigations determined the "financial practices, experience, literacy and condition of Hispanics," such that he would help "low-income" people of Latino origin "train and improve," including implementing a "systemic program" for small and medium sized Latino owned businesses to improve their productivity. The Petitioner indicated that "a program [would] be developed [for] each company according to their levels, on management and technological aspects, to accelerate understanding, [and] assimilate and change within the organization."

In denying the petition, the Director stated that the Petitioner's proposed endeavor was not sufficiently defined and that it was not properly clear what he intended to accomplish in the United States. Further, the Director determined that the Petitioner did not adequately demonstrate the substantial merit or national importance of his work, reasoning he did not establish that his work would have implications beyond the individual companies or business partners he served. As such, the Director concluded the Petitioner did not establish that his proposed endeavor would have substantial merit or national importance. On appeal, the Petitioner largely reiterates his prior assertions, again stating that based on his research he could assist small and medium sized Latino owned businesses to progress beyond the "infant stage" to a stage of "professional maturity" where they would generate more income, jobs, and higher productivity.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national 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.

In determining national importance, the relevant question is not the importance of the 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.

First, as noted by the Director, the Petitioner has not sufficiently articulated what his proposed endeavor would be in the United States. The Petitioner provided vague and varying statements related to his proposed endeavor. For instance, it is not entirely clear what role or position the Petitioner would work in, as he only ambiguously stated that he would work as a "special business consultant." In contrast, the Petitioner elsewhere in the record appeared to suggest that he would establish his own consulting company called [REDACTED]. However, the Petitioner only mentioned this proposed business one time on the record and provided little detail and documentation regarding this proposed new business, its specific plans, staffing levels, or other such probative information and evidence. For example, the Petitioner referred to "200 companies and entrepreneurs" and "university programs," but provided little detail as these projected clients and the nature of his planned programs. Likewise, the Petitioner did not discuss in detail the techniques, restructuring, seminars, games, books, systematic programs, and other such methods he would use to assist companies in moving from the "embryonic stage" to "maturity."

In the RFE, the Director requested that the Petitioner submit a detailed description of his proposed endeavor, but in response, he again provided the same ambiguous assertions as to his proposed endeavor discussed above. Therefore, in sum, because the Petitioner has not submitted a clear proposed endeavor, we cannot conclude that it would have substantial merit or national importance as defined by *Dhanasar*. The Petitioner must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Further, 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. Although the Petitioner's statements reflect vague intention to provide consulting services to small and large Latino owned businesses, 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. *Dhanasar*, 26 I&N Dec. at 893. Here, the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his clientele, and it is not sufficiently clear in what field his ambiguous business plans would have an impact. As such, the Petitioner has not demonstrated that his proposed

endeavor, even if sufficiently clear, would have a broad influence commensurate with national importance.

The Petitioner has also not demonstrated that the endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the United States. As discussed, the Petitioner mentioned a proposed company one time on the record, but did not detail its future staffing levels, business activity, and tax revenue, to demonstrate that it would provide substantial economic benefit to Florida or the United States. The Petitioner does not establish the benefits to the regional or national economy that would result from his undertaking such that it reaches the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. In addition, the Petitioner did not offer sufficient evidence to demonstrate that the areas where he would operate are economically depressed, he would employ a significant population of workers in these areas, or his endeavor would offer the region or its population a substantial economic benefit through employment levels, business activity, or tax revenue. Moreover, while the Petitioner contends that his proposed endeavor would assist small and medium sized companies in moving from the “embryonic stage” to “maturity,” it is not sufficiently clear what this means, and he has not shown the prospective impact of his proposed business or that it would represent a significant share of a particular field or market. Accordingly, the Petitioner’s proposed endeavor does not meet the first prong of the *Dhanasar* framework.

Because the documentation in the record does not establish the substantial merit or national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive, we decline to reach and hereby reserve the Petitioner’s arguments with respect to the second and third prongs outlined in *Dhanasar*. 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 as a matter of discretion.

ORDER: The appeal is dismissed.