



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

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

In Re: 26378865

Date: JUN. 6, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an architect, seeks classification under the second-preference, immigrant visa category as a member of the professions holding an advance degree and a waiver of the category's job-offer requirement. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(A), (B)(i), 8 U.S.C. § 1153(b)(2)(A), (B)(i). U.S. Citizenship and Immigration Services (USCIS) has discretion to excuse the job-offer requirement - and the related need for certification from the U.S. Department of Labor (DOL) - if a noncitizen demonstrates that their proposed employment in the United States would be in the "national interest." Section 203(b)(2)(B)(i) of the Act.

The Director of the Texas Service Center denied the petition. The Director found the Petitioner qualified as an advanced degree professional. But the Director concluded that the Petitioner did not demonstrate that his proposed U.S. employment would be in the national interest. On appeal, the Petitioner contends that the Director overlooked evidence of the "national importance" of his proposed endeavor.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we agree with the Director that the Petitioner did not demonstrate the national importance of his proposed U.S. work. We will therefore dismiss the appeal.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate their qualifications for the underlying immigrant visa category, either as an advanced degree professional or a noncitizen of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. The category generally requires a prospective U.S. employer to seek a noncitizen's services and obtain DOL certification to permanently employ them in the country. Section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D). To avoid the job offer/labor certification requirements, a petitioner must demonstrate that waiving these U.S.-worker protections would be in the national interest. Section 203(b)(2)(B)(i) of the Act.

Neither the Act nor regulations define the term “national interest.” But we have established a framework for adjudicating requests for national interest waivers. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). If otherwise qualified as an advanced degree professional or noncitizen of exceptional ability, a petitioner may merit a waiver of the job-offer/labor certification requirements if they establish that:

- Their proposed U.S. work has “substantial merit” and “national importance;”
- They are “well-positioned” to advance their intended endeavor; and
- On balance, a waiver of the job-offer/labor certification requirements would benefit the United States.

Id.

II. ANALYSIS

The Petitioner, a native and citizen of Brazil, has a bachelor’s degree in architecture and urban planning and more than 20 years of experience as an architect in his home country. He seeks to continue permanently working in the profession, designing, consulting, and planning residential, commercial, and public structures in the United States.

A. Advanced Degree Professional

The Petitioner demonstrated his possession of the foreign equivalent of a U.S. bachelor’s degree in architecture, followed by more than five years of progressive experience in the field. *See* 8 C.F.R. § 204.5(k)(2) (defining the term “advanced degree”). We therefore affirm the Director’s finding that the Petitioner qualifies for the requested immigrant visa category as an advanced degree professional.

B. Substantial Merit

A petitioner may demonstrate a proposed undertaking’s substantial merit by showing its “potential to create a significant economic impact.” *Matter of Dhanasar*, 26 I&N Dec. at 889. But “endeavors related to research, pure science, and the furtherance of human knowledge may qualify, whether or not the potential accomplishments in those fields are likely to translate into economic benefits for the United States.” *Id.*

The Petitioner contends that he would provide valuable services in the United States, boosting the economic impact of the country’s construction and housing industry and benefiting various other fields. We therefore agree with the Director that the Petitioner’s proposed endeavor has substantial merit.

C. National Importance

When assessing the national importance of proposed U.S. work, USCIS does not consider the significance of a petitioner’s field, industry, or profession. Rather, the Agency focuses on “the specific endeavor that the foreign national proposes to undertake.” *Matter of Dhanasar*, 26 I&N Dec. at 889. In determining national importance, we consider an endeavor’s “potential prospective impact.” *Id.*

“An 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.* USCIS does not focus on a proposal’s geographical scope. *Id.* at 890. “An 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.*

The Director concluded that the Petitioner demonstrated the national importance of the architectural field, but not of his specific endeavor. The Director found that the record lacks sufficient evidence that the benefits of the Petitioner’s work would reach beyond his employers and clients to advance his field or significantly boost the U.S. economy or an economically depressed area within the country.

On appeal, the Petitioner contends that he demonstrated that his U.S. work would broadly benefit more than his employers and clients, but also various U.S. interests, including:

- The construction and housing industry by contributing to its positive economic impact;
- Tourism by designing distinctive and iconic structures;
- Revitalization and recovery of historic buildings by playing a “vital role” in urban regeneration;
- Consumerism by creating commercial spaces to stimulate buying;
- Implementation of corporate projects by creating “theme” structures representing companies’ branding history and development; and
- Federal government initiatives by designing “green buildings,” using environmentally responsible construction processes, and modernizing and improving U.S. infrastructure.

We agree that these interests are important. As the Director found, however, USCIS must focus on “the specific endeavor that the foreign national proposes to undertake.” *Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner has not demonstrated that his specific proposal has national implications. The Petitioner states that his work would economically boost the U.S. construction and housing industry. But he has not established the national significance of that impact or its occurrence in an economically depressed area. The record also does not indicate that his U.S. work would produce architectural outcomes or processes advancing the field. Further, the Petitioner has not submitted evidence that his specific proposal would benefit the other areas he lists.

In *Dhanasar*, we found that a proposal to teach U.S. students in science, technology, engineering, and math (“STEM”) disciplines lacked national importance. *Matter of Dhanasar*, 26 I&N Dec. at 893. We agreed that the field of STEM teaching has substantial merit. *Id.* But we found insufficient evidence that the petitioner’s specific activities would broadly affect STEM education. *Id.* The Petitioner’s proposed endeavor is similar. The architectural profession has substantial merit. But, without evidence of broader implications for the country or the field, the record does not establish that the Petitioner’s specific proposal rises to the level of national importance. We will therefore affirm the petition’s denial.

Our affirmance resolves the appeal. As the Petitioner has not demonstrated the national importance of his proposed U.S. employment, we need not consider whether he meets the other requirements for a national interest waiver. Rather, we will reserve consideration of the other requirements if and until

needed. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976). (“[A]gencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.”)

III. CONCLUSION

The Petitioner demonstrated his qualifications as an advanced degree professional and the substantial merit of his proposed U.S. work as an architect. But the record does not sufficiently establish the national importance of his intended endeavor.

ORDER: The appeal is dismissed.