



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

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

In Re: 27437780

Date: JUNE 15, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur, seeks employment-based second preference (EB-2) 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 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 qualified for classification as a member of the professions holding an advanced degree, but that 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.

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. 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 U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

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 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 found that the Petitioner qualifies as a member of the professions holding an advanced degree. 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to his proposed endeavor, the Petitioner indicated that he intends to work as entrepreneur “in the segment of distribution of hydraulic equipment, specifically valves and connections for the control and handling of fluids, such as water, oil, steam, gas, sewage, etc.” In his “Professional Plan,” the Petitioner stated that he plans to expand his “company, L-C-V-C- LTDA – already in full operation and development in Brazil,” in the United States.² He further asserted that his “basic proposal is to develop a partnership with G- S.A., a company in Spain, which has a complete line of high-quality products, aimed at fluid control.”³

In addition, the Petitioner submitted two business plans for his proposed U.S. company. These business plans include industry and market analyses, information about the Petitioner’s company and its services, financial forecasts and projections, expansion predictions, a discussion of his work experience, and a description of company personnel. Regarding future staffing, the Petitioner’s two business plans anticipate that his company will employ 24 personnel in year one, 39 in year two, 66 in year three, 114 in year four, and 146 in year five, but he did not elaborate on these projections or provide evidence supporting the need for these additional employees. In addition, while his plans offer sales projections of \$1,384,865 in year one, \$2,250,405 in year two, \$3,785,296 in year three, \$6,603,496 in year four, and \$8,448,597 in year five, he did not adequately explain how these sales forecasts were calculated.

The record includes information about the Bipartisan Infrastructure Investment and Jobs Act, the Bipartisan Infrastructure Deal, the Biden Administration’s plan to revitalize American manufacturing and secure critical supply chains, and construction material shortages and their effect on real estate development. In addition, the Petitioner provided articles discussing trends in hydraulic tube production during times of supply shortages; supply chain issues affecting the North American pipe, valve, and fitting (PVF) industry; the engineering and construction industry outlook; and the state of the commercial PVF market. The record therefore demonstrates that the Petitioner’s proposed endeavor has substantial merit.

Furthermore, the Petitioner provided letters of support from R-R-, G-S-A-, J-T-, and W-S- discussing his business development and hydraulics equipment distribution capabilities and experience. The Petitioner’s skills, knowledge, and prior work in his field, however, relate to the second prong of the

² The record includes the State of Florida business registration for L- LLC.

³ The Petitioner provided an April 2021 letter from the Export Manager at G- S.A. asserting that the company has “come into an agreement with [the Petitioner] to become our sole distributor for the Florida State. As soon as [the Petitioner] has set up his company in the U.S., this agreement will be fully deployed between his company and G- S.A.”

Dhanasar framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar*’s first prong.

The Petitioner also submitted an “Expert Opinion Letter” from H-D-P-, an associate professor at U-T-D-, in support of his national interest waiver. H-D-P- contends that the Petitioner’s proposed work is of national importance because his company stands to provide useful products for water infrastructure; encourage international trade and business relations; and support the U.S. economy, businesses, and job market. The letter from H-D-P-, however, does not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner’s specific proposed work operating a hydraulic equipment distribution company offers broader implications in his field or substantial positive economic effects for our nation that rise to the level of national importance.

In the decision denying the petition, the Director determined that the Petitioner had not established the national importance of his proposed endeavor. The Director stated that the Petitioner had not demonstrated that his undertaking has national or global implications within a particular field or industry. The Director also indicated the Petitioner had not shown that his proposed work “has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation.”

On appeal, the Petitioner states that his undertaking “will provide the United States infrastructure segment with cost-effective and critical supplies for fluid control, and, therefore, contribute to the U.S. economic growth with the distribution of materials to backbone industries” and through “generation of jobs and income.” He asserts that his company stands to offer “an effective way for maintaining the supply chain in hydraulic and fluid control equipment and to avoid greater negative impacts on the economy due to the shortage of materials, as it will act as a supply hub to import critical equipment and components to the United States.” In addition, the Petitioner claims that “his company will help foreign companies that want to initiate activities in the U.S. territory with focus on strategic industries such as water, mining, and oil & gas. The endeavor will develop critical components manufacturing supply chain in the U.S. territory.” He also contends that his company will help maintain “the supply and distribution chain that has been disrupted by the COVID-19 pandemic.”

Additionally, the Petitioner argues that he plans to expand his company’s “activities in three states . . . until reaching national growth” and that his company is “committed to impacting economically distressed areas.” He further asserts that his company will hire in-house employees and contribute to the generation of indirect jobs in the industry. The Petitioner also indicates that his company stands to have a “direct impact in the community” through payment of taxes.

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. 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.

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. While the Petitioner’s statements reflect his intention to develop and operate his hydraulic equipment distribution company, 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. *Id.* at 893. Here, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his company’s business operations to impact his industry or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not shown that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Specifically, he has not demonstrated that his company’s future staffing levels and business activity stand to provide substantial economic benefits in Florida or the United States. While the Petitioner claims that his company has growth potential, he has not presented evidence indicating that the benefits to the regional or national economy resulting from his undertaking would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. In addition, although the Petitioner has asserted that his endeavor will “employ U.S. workers,” he has not offered sufficient evidence that the area where his company will operate is economically depressed, that he would employ a significant population of workers in that area, or that his endeavor would offer the region or its population a substantial economic benefit through employment levels, tax revenue, or business activity.

For the aforementioned reasons, the Petitioner’s proposed work does not meet the first prong of the *Dhanasar* framework. Because the documentation in the record does not establish the 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 of the Petitioner’s appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the third prong 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. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.