



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

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

In Re: 27490420

Date: JUN. 26, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a personal trainer, seeks second preference immigrant classification as a member of the professions holding an advanced degree 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. 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 the Petitioner had not established eligibility for 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, petitioners must 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. In addition, petitioners must show the merit of 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 U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver if:

- 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.

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).

II. ANALYSIS

As it relates to the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. At initial filing, the Petitioner provided a personal statement indicating:

I would very much like to be able to continue my work as a Master Trainer at the [] studio, a place that since I received my work permit, I have the honor of serving a wide range of clients with serious physical and psychological limitations

. . . .

At [] we are creating a specific program for the obese, due to the astounding results my clients have been able to achieve. Improvements in their health are beginning to show in their professional lives, generating economic benefits to their employers, impacting industries far beyond my gym or just themselves.

The program involves specific exercises tailored for obese individuals, a personalized weight control plan for each client and constant calculation of each client's BMI (body mass index). Through each training program my mentorship includes creating personalized exercises, leading to behavioral changes, both emotional and physical, which translates into positive changes not only in their lives but all around them, including family, co-workers, organizations and entire communities.

. . . .

My work will also extend beyond [] Fitness and greatly impact our entire region in South Florida. As a representative of [] Fitness, I will also work in partnership with the city of [] providing weekly classes to its citizens of all age groups and all fitness levels. I will lead at [] initially focusing on students who are overweight, obese grades 1 and 2 as well as the elderly population.

I will also provide classes to one of the largest mentoring networks in the nation, Big Brothers Big [S]isters My role with the organization will consist of hosting fitness classes every Saturday, opening the doors of [] Fitness to host kids of all ages and weight classes. Besides fitness classes, I will provide guidance on nutrition and gradual changes in lifestyle. Many kids who come to this organization, comes from poor neighborhoods and broken families. They do not have the necessary support to maintain a healthy lifestyle. I will help children all over [] and nearby regions make necessary changes to better their health and relationships

In response to the Director's request for evidence (RFE), the Petitioner submitted another personal statement indicating:

My proposed endeavor is to work in the physical education field as a personal trainer with vulnerable groups. Vulnerable groups, also known as special populations or special groups, refers to particular groups of people with special fitness and exercise needs and typically require a greater level of supervision. This group includes those with diseases like heart disease, diabetes and other prevalent diseases and extends to those with injuries and specific situations like pregnancy, postpartum, seniors, etc.

The Director determined the Petitioner demonstrated the proposed endeavor's substantial merit but not its national importance. On appeal, the Petitioner maintains:

. . . [I]t is clear that [the Petitioner's] continuing employment in the field of Physical Education goes far beyond simply maintaining a position but rather involves a passionate dedication to helping special and vulnerable groups of people achieve unprecedented fitness levels and reduce their risk of chronic diseases. Moreover, her work has already positively impacted the health and societal welfare of the United States, demonstrating the significance of her endeavor and the importance of evaluating it under this analytical framework.

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 specific endeavor that the foreign national proposes to undertake." See *Dhanasar*, 26 I&N Dec. at 889. Although the Petitioner references her submission of "Probative Research," including the benefits of physical activity, information relating to the personal trainer occupation, and background material regarding a wide range of topics, such as obesity, special populations, and exercise, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of providing her particular master physical training services with [redacted] Fitness, obese grade levels 1 and 2 at [redacted] and the local chapter of Big Brother Big Sisters of America in [redacted] Florida rather than the importance of physical trainers, physical education, or various health topics.² In *Dhanasar*, we 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.

Moreover, the Petitioner contends that she presented expert opinion letters who found her proposed endeavor has national importance. The letters, however, make the same arguments, discussed above, relating to the importance of physical trainers, exercise, and various health issues in the United States rather than the national importance of her specific, proposed endeavor. Furthermore, the letters do not explain how the Petitioner's physical training services in the local [redacted] Florida area have broader implications for our country. To evaluate whether the Petitioner's proposed endeavor satisfies

² The Petitioner's arguments and evidence relate more to the substantial merit aspect of the proposed endeavor rather than the national importance part.

the national importance requirement, we look to evidence documenting the “potential prospective impact” of her work. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner did not demonstrate how her proposed endeavor largely influences the field and rises to the level of national importance. In *Dhanasar*, we determined 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. Likewise, the record does not show through supporting documentation how her master physical training services stand to sufficiently extend beyond her prospective clients at [REDACTED] or the local chapter of Big Brothers Big Sisters of America, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner did not demonstrate how her proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation attributable to her proposed endeavor, the record does not show any benefits to the U.S. regional or national economy resulting from her personal training activities would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.³

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she 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, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

³ See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “courts and agencies are not required to make findings on issues in 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).