



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

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

In Re: 24844899

Date: MAR. 7, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an information security specialist, 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 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 that the Petitioner is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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, 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Profession is defined as one of the occupations listed in section 101(a)(32) of the Act as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.¹ 8 C.F.R. § 204.5(k)(2).

¹ Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 discretion², 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.

II. ANALYSIS

The Petitioner is an information security specialist who proposed to work in the United States as a consultant in the fields of information technology and cybersecurity. He holds the foreign equivalent of a U.S. bachelor’s degree in information systems and has worked in the field of information technology for more than 14 years. The Director determined that he is eligible for the EB-2 classification as a member of the professions holding an advanced degree, and we agree. The remaining issue on appeal is whether the Petitioner is eligible or otherwise merits a waiver of that classification’s job offer requirement. We conclude that he is not.

The first prong of the *Dhanasar* analytical framework, 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

The Director determined that the Petitioner has not established that his proposed endeavor has both substantial merit and national importance. The Petitioner states that he intends to “work with and contribute towards software engineering and architecture, information security, and strategic planning in the United States, improving the information technology sector by taking challenging roles in information technology, helping companies in digital transformation and reinvention, helping to identify the products and services that differentiate the company from its competitors, and applying his information technology knowledge to execute the strategy.”

The Petitioner submitted an expert opinion letter from a professor of computer science, information systems, and cybersecurity at [REDACTED] University. The professor states that the Petitioner’s proposed endeavor to provide his services in the information technology industry has substantial benefits for the United States’ information technology sector because the U.S. information infrastructure, ranging from telecommunications to computer networks, is the foundation for much of the business, military, and civilian activity, because the United States is the largest tech market in the world, and because information technology impacts the U.S. economy through electronic commerce.

² 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).

We conclude that the Petitioner's proposed endeavor has substantial merit based on his claim that his endeavor aims to advance information technology initiatives and further national security interests and U.S. competitiveness in the information technology sector.

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 addition, we indicated 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. At the time of filing his petition, the Petitioner was working as the director of information security at [REDACTED]. The Petitioner currently works as the vice president of information security at [REDACTED] Corporation. On appeal, the Petitioner claims that "as an information technology consultant and an information security specialist who will contribute toward optimizing processes, reducing costs, risks, and losses, increasing productivity, enhancing business intelligence, and helping companies operate more efficiently, his undertaking will spur innovation, create new jobs, new industries, and new opportunities for Americans." While we acknowledge the Petitioner's claims, he has not provided evidence to substantiate them. He has not provided documentary evidence that his proposed job duties as an information technology consultant and an information security specialist would impact the fields of information technology and cybersecurity more broadly rather than benefiting his employer or their clients. Without sufficient documentary evidence of their broader impact, the Petitioner's proposed employment does not meet the national importance element of the first prong of the *Dhanasar* framework.

The Petitioner submitted an expert opinion letter from a professor of electrical and computer engineering at [REDACTED] University. The professor states that the Petitioner's proposed endeavor to provide services as an information security consultant is important to the United States because "it helps grow the U.S. economy by allowing businesses to expand, creating more jobs for U.S. workers, reducing losses due to cybercrime, and enhancing the social welfare for U.S. citizens." Here, the Petitioner has not demonstrated that his proposed endeavor has significant potential to employ U.S. workers or otherwise offers "substantial positive economic effects" for our nation contemplated by *Dhanasar*. *Id.* at 890. For example, he has not offered sufficient evidence that his consulting services would enable his employer to employ a significant population of workers in an economically depressed area or that his endeavor would offer a particular U.S. region or its population a substantial economic benefit through employment levels or business activity. Nor has the Petitioner demonstrated that any increase in the company's revenue attributable to his consulting services stands to substantially affect economic activity regionally or nationally. Therefore, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework.

Furthermore, to support claims regarding the positive impacts of his proposed endeavor, the Petitioner made a reference to presidential executive orders on "Restoring Faith in Our Legal Immigration

Systems and Strengthening Integration and Inclusion Efforts for New Americans” and “Improving the Nation’s Cybersecurity.” The Petitioner also made a reference to “Biden-Harris Administration Actions to Attract STEM Talent and Strengthen our Economy and Competitiveness.” In addition, the Petitioner states that in 2020, the U.S. National Security Council developed the National Strategy for Critical and Emerging Technologies to obtain and retain global superiority in world-changing emerging technologies and that the strategy incorporates a list of Critical and Emerging Technologies, which are a subset of advanced technologies that are potentially significant to U.S. national security. The Petitioner further states that the list includes technologies, such as advanced computing (data storage, computing architectures, data processing, and analysis techniques) and communication and networking technologies (network security), all of which the Petitioner will impact through his proposed endeavor. While the documents indicate the importance of technology and cybersecurity to maintain and improve U.S. competitiveness and national security, they do not specifically show the government’s interest in the Petitioner’s proposed endeavor. The Petitioner has not otherwise provided sufficient information and evidence to demonstrate the prospective impact of his proposed endeavor rises to the level of national importance. As such, the record does not sufficiently demonstrate the Petitioner’s proposed endeavor is of national importance.

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. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.

III. CONCLUSION

Although the Petitioner has shown that he is a member of the professions holding an advanced degree and that his proposed endeavor to work in the United States as a consultant in the fields of information technology and cybersecurity has substantial merit, he has not shown that his proposed endeavor has national importance. Accordingly, the Petitioner has not established by a preponderance of the evidence that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.