



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

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

In Re: 26929253

Date: MAY 17, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a lawyer, 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 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, 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. Next, a petitioner must then demonstrate they merit 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 discretion<sup>1</sup>, grant a national interest waiver if the petitioner shows:

- 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.

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<sup>1</sup> 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

The Director's decision did not determine whether the Petitioner qualifies as a member of the professions holding an advanced degree. Instead, the Director only addressed the Petitioner's eligibility for a national interest waiver, which is the sole issue on appeal.<sup>2</sup>

The first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner initially provided statement indicating:

. . . I have partnered with my father (with [redacted] and our friend (with [redacted] to provide opportunities for U.S. companies to invest in Uzbekistan and Uzbek companies to invest in the U.S. This would not only allow continued access to income for the U.S. companies, insuring higher tax earnings for the United States, provide foreign direct investment into the U.S. economy, create more jobs, employ people from underrepresented communities, increase trade turnover and even cut down the cost to U.S. companies in the expansion of their operations in Uzbekistan or other former-Soviet nations, allowing direct access to major Uzbek (and/or other regional) stakeholders, but ensure increased economic participation of the United States in Uzbekistan, thereby increasing the U.S. political influence and involvement in the region which I strongly favor.

. . . .

The venture that my father and I formed, [redacted] seeks to address . . . , allowing companies to use our services to establish themselves in the region through first contact(s) or contracts with our affiliate company Uzbekistan to act as their representatives. In addition to the fact that my father, partner, and investor is himself an Executive Vice President of the biggest [redacted] company in the region, heading, among others, the construction of Uzbekistan's first nuclear power station and building of nuclear industry of Uzbekistan, we both have access to a vast network of companies, high net-worth individuals and other decision-making authorities. Consequently, our companies are best positioned to help the corporate, economic, political and strategic interests of the United States . . . .

In response to the Director's request for evidence (RFE), the Petitioner submitted an updated statement reflecting:

[M]y proposed endeavor is to create a consulting company that will work with US companies to expand, promote and develop the operations of US companies in Central Asia (beginning with Uzbekistan), as well as bring Central Asian investors (beginning with Uzbekistan) to the United States. To this end, I have formed [redacted] partnering up with my father, a well-respected executive in the energy sector of

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<sup>2</sup> Because the Petitioner did not establish eligibility for a national interest waiver on appeal, we need not remand the matter to the Director in order to make a determination on the underlying immigrant classification.

Uzbekistan and former USSR in general, have been in contact with potential clients and executed a contract with our first client . . . .

At initial filing and in response to the Director's RFE, the Petitioner provided documentary evidence relating to various topics, such as the economic climate in Uzbekistan, U.S. interests and Central Asia energy security, U.S. strategy in Central Asia, and U.S. relations with Uzbekistan. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. Although the evidence establishes the substantial merit of his proposed endeavor, the Petitioner did not show its national importance, discussed below.

On appeal, the Petitioner contends the importance of investment in and development of Central Asia, the importance of a relationship with Uzbekistan, and the importance of trade. 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. Here, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of creating and operating a consulting company rather than the importance of investments, developments, relationships, and trade agreements with Uzbekistan and other Central Asian countries. Further, 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, 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 references recommendation letters, they do not offer specific information demonstrating the prospective impact of his proposed endeavor rises to the level of national importance. Here, the letters contain vague, general assertions without showing how owning and operating [redacted] stand to sufficiently extend beyond the company's prospective clients, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance. For instance, [redacted] stated that "I know that he has formed a consulting company in the United States intending to attract American clients, investors, or enterprises to Uzbekistan," and "am convinced that this endeavor will be a solution for both our countries' interest in increasing trade and investment activity." [redacted] however, did not further elaborate and explain how the Petitioner's consulting company would affect trade and investment to a degree of national importance. Without specific, detailed information, the Petitioner did not establish the "potential prospective impact" of his endeavor. 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 Petitioner did not show his proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. The Petitioner cites to a letter from [redacted] who generally claimed that the Petitioner's endeavor would "increase jobs in Uzbekistan and the United States" and "potentially substantially increase national

revenues that otherwise might not have happened.” However, [REDACTED] did not indicate, as well as explain, how many jobs the Petitioner’s endeavor would create or the level of revenue the company would generate. Without credible, sufficient evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not reflect any benefits to the U.S. regional or national economy 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 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.<sup>3</sup>

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he 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.

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<sup>3</sup> 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).