U.S. Citizenship and Immigration Services

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

In Re: 31842491

Date: AUG. 16, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a sustainability 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 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 pursuant to 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 qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate 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 discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

- 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.

*Id.*

## II. ANALYSIS

The Director determined that the Petitioner qualifies as a member of the professions holding an advanced degree, but he did not establish that his proposed endeavor has national importance as required to establish eligibility for a national interest waiver under the *Dhanasar* framework. The Director specifically concluded the record did not establish the Petitioner's proposed endeavor would have broad enough impact sufficient to rise to the level of national importance. On appeal, the Petitioner argues he is providing a detailed breakdown of his plans such that USCIS should conclude his work helping companies become more sustainable will be of national importance. For the reasons set forth below, we conclude that the Petitioner has not met the first prong of the *Dhanasar* framework and will dismiss the appeal accordingly.[2]

The Director determined that the Petitioner did not establish that his proposed endeavor in the field of sustainability met the national importance element of the first prong of the *Dhanasar* framework. The first prong, 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.

On appeal, the Petitioner claims that the goal of the proposed endeavor, "to work for the government and implement policy changes to make the state of Florida and the United States more sustainable," will be achieved through employment with a Florida government entity between 2026 and 2030. He indicates, through his "strategic plan", that his path to employment with the Florida government agency will first involve employment with two private companies, networking, and continued education. He indicates he intends to first pursue employment with two specific entities in Florida to "establish himself as a Sustainability Specialist in [redacted] Florida . . . [using the two jobs to] build a resume of his work, learn more about specific sustainability problems in Florida, and begin networking and making a name for himself in the U.S. sustainability industry." Through continued networking, he plans to "use his unique expertise to mitigate climate change and help the country." He then intends to obtain a Ph.D. to "become uniquely able to advise businesses and the government in more sustainable practices". The culmination of his "strategic plan" will be "[e]mployment with a Florida Government Entity". He argues that his proposed endeavor will "directly contribute to both national and global environmental stability" by "locally addressing the global crisis of climate change." Finally, on appeal, he asserts that the work of sustainability experts positively impacts economic growth by fostering "job creation by propelling the demand for green technologies, nurturing

[2] If the Petitioner does not meet the first prong, the evidence is dispositive in finding the Petitioner ineligible for the national interest waiver, and we need not address the second and third prongs.

sustainable business practices, and nurturing growth in renewable energy and waste management industries."

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of the Petitioner's work. We focus on the "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. While the Petitioner claims that his proposed endeavor serving as a sustainability specialist is of national importance because it will address climate change and contribute to both national and global environmental stability, 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. This is particularly true where, as in the Petitioner's case, we are unable to determine the exact nature of the proposed endeavor, which includes both pursuing a university degree and seeking future employment with multiple entities. Although he has outlined the steps of his proposed endeavor in his strategic plan, the actual specifics of that endeavor are not clear. Ultimately, it is not apparent what he intends to do at any level of his plan, nor is it explained what the proposed endeavor itself is, other than a plan to ultimately seek employment after developing the necessary skills and knowledge. It is insufficient to claim an endeavor has national importance or will create a broad impact without providing evidence to corroborate such claims. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). 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, the record does not include adequate corroborating evidence to show what the Petitioner's proposed work entails and how that endeavor offers broader implications in his field of sustainability or enhancements to U.S. societal welfare that rise to the level of national importance. Further, the Petitioner has not presented evidence of any potential benefits to the regional or national economies resulting from his undertaking that would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. General assertions of economic impact are not sufficient to establish the actual potential economic impact of the proposed endeavor.

Accordingly, we find that the record does not demonstrate national importance of the Petitioner's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, and the Petitioner has not demonstrated eligibility for a national interest waiver. As the reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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.

**ORDER:** The appeal is dismissed.