U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 44009935

Date: AUG. 24, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a chief executive officer (CEO) and an entrepreneur in the healthcare facility maintenance and waste management industry, 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).

USCIS denied the petition, concluding that although the Petitioner qualified as an advanced degree professional, 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 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.

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 foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

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. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides

the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as matter of discretion,[1] 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.

Id.

II. ANALYSIS

The Petitioner's proposed endeavor is to establish a cleaning services business in [redacted] Florida. In his business plan, he explains that he "will provide services related to cleaning and conservation as well as waste disposal to businesses and government agencies who wish to outsource these services. His focus will be providing services mainly in hospitals, labs, surgery centers and clinics."

A. EB-2 Classification

As an initial matter, although USCIS determined the Petitioner is a member of the professions holding an advanced degree, upon de novo review, we disagree.

In addition to the definition of "advance degree" provided at 8 C.F.R. § 204.5(k)(2), the regulation at 8 C.F.R. § 204.5(k)(3)(i)(B) provides that a petitioner present "[a]n official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty." The record indicates that the Petitioner's foreign law degree is equivalent to a U.S. baccalaureate degree in legal studies. However, the Petitioner did not submit the evidence required to establish five years of qualifying work experience. A petitioner must provide "evidence in the form of letters from *current or former employer(s)* showing that [the petitioner] has at least five years of progressive post-baccalaureate experience *in the specialty*." 8 C.F.R. § 204.5(k)(3)(i)(B) (emphasis added). The Petitioner does not provide such letters. Instead, the Petitioner references the letters of recommendation from colleagues and clients. As these letters are not from current or former employers, the record does not establish that the Petitioner possessed at least five years of progressive post-baccalaureate experience in the specialty.

Therefore, the Petitioner has not established by a preponderance of the evidence that he is a member of the professions holding an advanced degree and we withdraw USCIS' determination on this issue.

B. Substantial Merit and National Importance

We will now address whether the Petitioner has established that a waiver of the job offer requirement, and thus of the labor certification, would be in the national interest.[2]

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).
[2] While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* USCIS determined that the Petitioner's proposed endeavor was of substantial merit, and we agree. However, USCIS concluded that the Petitioner did not establish that his proposed endeavor has national importance.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we noted that, in assessing national importance, "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.* at 890. 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.*

On appeal, the Petitioner contends USCIS did not fully explain the reasons for denying the petition and cites to *Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994). He asserts that USCIS' "denial notice reflects a significant failure to consider the specific evidence presented in support of the national importance" of his endeavor including his business plan, expert opinion letter, professional projects, and industry reports. Upon review, we disagree with the Petitioner that USCIS did not fully explain the reasons for denying the petition.

With respect to the standard of proof in this matter, a petitioner must establish that it meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. In other words, a petitioner must show that what it claims is "more likely than not" or "probably" true. To determine whether a petitioner has met this burden under the preponderance standard, USCIS considers not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, USCIS properly analyzed the Petitioner's documentation and weighed the evidence to evaluate the Petitioner's eligibility by a preponderance of evidence.

In support of national importance, the Petitioner highlights his professional experience in the healthcare maintenance and waste management industry. However, the Petitioner's education, skills, and experience are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the Petitioner has demonstrated, by a preponderance of the evidence, the national importance of his proposed endeavor.

The Petitioner asserts on appeal that his proposed endeavor "will contribute to strengthening the capacity of U.S. healthcare institutions to safely manage hazardous waste streams and maintain high sanitation standards." He also states that his endeavor "carries economic significance" as it "will create employment opportunities, support healthcare providers in focusing resources on patient care, and promote efficient operations of medical facilities." Further, he asserts that his endeavor "has implications that extend far beyond the success of a single business venture and directly advanced objectives of substantial national importance relating to public health, environmental stewardship, healthcare infrastructure, and workforce development in the United States." The Petitioner, however,

has not provided evidence demonstrating that his proposed endeavor would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the asserted potential prospective impact of his proposed endeavor stands to offer broader implications in his industry or to generate substantial positive economic effects. 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 future clients to impact his field of healthcare facility management and waste management, the economy, or U.S. societal welfare more broadly at a level commensurate with national importance.

Specifically, we reviewed the Petitioner's business plan, which asserts that the company will employ 55 employees, pay over $2 million in payroll expenses, and generate a net profit of over $200,000 by its fifth year. The business plan uses a multiplier published by the Economy Policy Institute (EPI) to show that it will generate 73.97 indirect jobs by the company's fifth year of operation. The business plan also shows that a Regional Input-Output Modeling System (RIMS II) projects that the company will indirectly create 137 jobs and reach over $5 million in total revenue in the next five years. Notably, the Petitioner does not address or explain the significant discrepancy between the EPI and RIMS II figures. Furthermore, the Petitioner does not provide sufficient detail of the basis of these projections or adequately explain how these staffing targets and revenue forecasts will reach the level of national importance contemplated in *Dhanasar*. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to his future work, the record does not show that the benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Matter of Dhanasar*, 26 I&N Dec. at 890.

We acknowledge that the size of the U.S. healthcare industry and its growth can be helpful in establishing the potential need for or interest in the Petitioner's healthcare maintenance and medical waste management practices. However, this speaks to the substantial merit of the proposed endeavor, which we agree with USCIS has been established. Additionally, while such evidence could also be a positive factor in determining national importance, it is not, by itself, sufficient for the Petitioner to meet his burden of proof. For instance, the articles about medical waste do not discuss the Petitioner's specific proposed endeavor and therefore do not help establish that it is of such a scale that it has the potential for a broad impact on that industry or that it would otherwise rise to the level of national importance. The size of the market overall does not establish, on its own, widespread interest in the Petitioner's practices as he claims. As such, we conclude that this evidence is not sufficient to establish the proposed endeavor's national importance.

Moreover, the Petitioner asserts that his proposed endeavor has national importance since it "[a]ligns closely with longstanding federal public health priorities" including the U.S. Department of Health and Human Services and the Center for Disease Control and Prevention. However, when determining whether the proposed endeavor has 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." *Id.* at 889. Thus, while we acknowledge that the healthcare facility management and waste management industry is important, this fact is insufficient to establish the national importance of his proposed endeavor.

In addition, we reviewed the expert opinion letter from S-M-, a professor at [redacted] University. Upon review, the author discusses the proposed endeavor and its claimed benefits. However, the author's opinion is largely conclusory and does not adequately explain how the Petitioner's work would produce such nationally important impacts. For example, the author opines that the Petitioner's proposed endeavor will "assist businesses in the correct disposal of their waste, thereby helping the United States protect public health, the environment, conserve natural resources and landscapes, and address the escalating crises of climate change." In addition, the author states that "by creating employment opportunities and fostering social and economic well-being, the endeavor supports sustainable and inclusive economic development at both the national and global levels." But beyond these generalizations, the author provides little explanation or corroborating evidence directly linking the Petitioner's company to these claimed benefits, industry wide impact, or other substantial positive economic or societal effects.

We also reviewed the Petitioner's letters of recommendation. The authors praise the Petitioner's abilities and the personal attributes that make him an asset in the United States. For instance, one letter states that the Petitioner "is an outstanding professional with admirable competence and vision for business. His ability to undertake and manage everything that involves a company is evident in the services he offers." Another letter states that the Petitioner's "performance has always been fundamental for the success of the companies in which he is a partner because of his strategic vision, commercial and administrative skills, and HR policies knowledge, which have driven the organizations to significant levels of growth, soundness, and profitability." While the letters evidence the high regard the Petitioner's colleagues have for him and his work, they do not offer persuasive detail concerning the impact of his proposed endeavor or establish how such an impact would extend beyond his future clients. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

III. CONCLUSION

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address his eligibility under the remaining prongs, and we hereby reserve them. *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 alternate issues on appeal where an applicant is otherwise ineligible). The burden of proof is on the Petitioner to establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that he has not established eligibility for a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are

otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.