U.S. Citizenship and Immigration Services

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

In Re: 31068365

Date: FEB. 27, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur, 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 proposed endeavor is of national importance or that it would be beneficial to the United States to waive the requirements of a job offer and labor certification. 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 U.S.

Citizenship and Immigration Services (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. ADVANCED DEGREE

The Petitioner asserts that he qualifies for an advanced degree professional classification by virtue of foreign education that he claims is equivalent to a U.S. bachelor's degree and two U.S. master's degree, in accordance with 8 C.F.R. § 204.5(k)(3)(i). The Director determined that the Petitioner was a member of the professions holding an advanced degree. After reviewing the record, we disagree with the Director's determination.[2]

A petition for an advanced degree professional must include evidence that a petitioner possesses a "United States academic or professional degree or a foreign equivalent degree above that of baccalaureate." 8 C.F.R. § 204.5(k)(2). In order to show that a petitioner holds a qualifying advanced degree, the petition must be accompanied by "[a]n official academic record showing that the [individual] has a United States advanced degree or a foreign equivalent degree." 8 C.F.R. § 204.5(k)(3)(i)(A). Moreover, any document in a foreign language must be accompanied by a full English language translation, and a certification from the translator that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3).

To demonstrate that he has the claimed degrees, the Petitioner submitted a copy of his relevant diplomas and the accompanying addendum for both degrees, along with translations for all the aforementioned documents. The petition did not contain the required certificates of translation for these documents. As the academic records were not translated in accordance with the plain language requirements of 8 C.F.R. § 103.2(b)(3), they do not have any evidentiary weight and will not be considered. As the academic records are required to demonstrate a qualifying degree, the Petitioner has not demonstrated he has the requirements for the visa classification.

In light of the above, we disagree with the Director's conclusion that the Petitioner has established that he is an advanced degree professional in accordance with 8 C.F.R. § 204.5(k)(3)(i).

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[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] The issue of the Petitioner's degrees were not a ground of dismissal in the Director's decision. Nonetheless, we exercise "de novo review of all issues of fact, law, policy, and discretion" and on appeal look "at the record anew and [our] decision may address new issues that were not raised or resolved in the prior decision." *See generally AAO Practice Manual*, Ch. 3.4, https://www.uscis.gov/aao-practice-manual.

## III. NATIONAL INTEREST WAIVER

The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we agree with the Director that the Petitioner has not sufficiently demonstrated national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

### A. Substantial Merit and National Importance

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.

The appeal brief states that the Petitioner's business, [redacted] specializes "in recruiting international students, including STEM students for U.S. higher education institutions." The evidence provided does not demonstrate that this specific endeavor is of national importance.

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 *Dhanasar*, we further 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. To evaluate whether a petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the potential prospective impact of their work. 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. 26 I&N Dec. at 893.

Here, the Petitioner has not adequately described how his business will have a broader impact on the field of international student recruitment beyond its clients. The Petitioner argues on appeal that his proposed work is nationally important because "[t]he United States has an urgent need for international STEM students." Yet the brief and the record do not explain how his business would impact the overall field more broadly beyond its clients on the level of national importance. The majority of the brief argues that it is important for the United States to recruit international students and asserts that as the proposed endeavor supports that effort, it is nationally important. However, these arguments ignore the requirements we set forth in *Dhanasar*. It is not the importance of the field that determines an endeavor's national importance, but rather how the specific endeavor will impact the field on a level commensurate with national importance. *See Dhanasar*, 26 I&N Dec. at 889. The brief neglects to explain how the Petitioner's individual business will affect the overall international student recruitment field on nationally important level. Petitioners must establish their capacity to

significantly benefit the industry or field as a whole, in accordance with the prevailing legal standards. *See Dhanasar*, 26 I&N Dec. at 890-93.

The record does not sufficiently demonstrate national importance either.[3] The Petitioner provided reports and articles on international students, letters from university clients, client contracts, lists of student placements, articles about the company, and copies of their promotional materials.

The contracts, student placement lists, and promotional materials provided speak to the Petitioner's past accomplishments and experiences, not the specific endeavor's potential impact in the international student recruitment field. Generally, this type of evidence is more appropriate for the second prong when determining if the petitioner is well-positioned to advance the proposed endeavor. *Dhanasar*, 26 I&N Dec. at 890.

The articles concerning the Petitioner's business discuss the company's past experiences placing students in many different countries. They contain little mention of the current proposed endeavor, to recruit students into U.S. universities, with the exception of a few statements about the company's J-1 and F-1 approval rates around 2018. As with the evidence analyzed above, this speaks more to the second prong of the *Dhanasar* framework regarding the Petitioner's ability to advance the proposed endeavor. The other articles and reports are of little evidentiary value as they do not address the Petitioner's specific proposed endeavor or how it would have broad implications in the international student recruitment field in a way that implicates national importance.

Next, the letters from the Petitioner's university clients are insufficient to establish that the endeavor is nationally important. The majority of the letters speak to the writers' professional relationship with the Petitioner's company, the work the company completed, and how it has helped them recruit students. They do not stipulate how the Petitioner's proposed endeavor will contribute to the international student recruitment field on a nationally important level. The appeal brief contends that the letter from [redacted] Secretary-Treasurer of [redacted] speaks to the broader significance of the proposed endeavor. It highlights a section of the letter that states that the Petitioner's work is "a benefit not only to foreign students looking for a quality education, but also to education and universities in American that seek greater cultural experience and diversity in their institutions." We disagree that this statement speaks to the proposed endeavor's impact on the field. Rather, the section is describing how the proposed endeavor can benefit its clients, the universities it recruits for, by providing students from international backgrounds. The evidence submitted does not establish that the proposed endeavor will have a nationally important impact on the field.

Moreover, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. An endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, may have national importance. *Dhanasar*, 26 I&N Dec. at 890.

[3] While we may not discuss every document submitted, we have reviewed and considered each one. We note that in the appeal filing and the response to the request for evidence (RFE), the Petitioner submitted several articles, client contracts, and other documents that originated after the filing of the petition. A petitioner must meet all of the eligibility requirements of the petition at the time of filing. 8 C.F.R. §§ 103.2(b)(l), (12).

Here, however, the business plan does not adequately support these projections of job and revenue creation. The Petitioner's business plan anticipates that the Petitioner's company will reach a total of 37 employees in year five, with payroll expenses growing from $305,000 in year one to $2,604,406 in year five. He also projected generating $29,476 in net profit in year one, increasing to $118,633 in year five. Nonetheless, the plan does not explain how these forecasts were calculated, or adequately clarify how these projections will be realized, nor does the record contain evidence to support the business plan's financial projections. The preponderance of the evidence standard requires that the evidence demonstrate that the petitioner's claim is probably true, where the determination of truth is made based on the factual circumstances of each individual case. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, truth is to be determined not by the quantity of evidence alone but by its quality. *See id.* The lack of supporting details here detracts from the credibility and probative value of the business plan.

Even if we assumed all the projections in the business plan were accurate, the record lacks evidence demonstrating that the proposed endeavor will result in substantial economic growth on the level of national importance. The record does not illustrate how creating 37 jobs and generating net profit as projected in the business plan, would have substantial positive economic effects on the level of national importance. The Petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner makes additional arguments regarding the economic impact of international students on the U.S. economy, in particular on university budgets and rural schools. The appeal brief avers that international students contribute to the U.S. economy, help subsidize the cost of college for U.S. students, and create jobs through added demand on their localities, particularly in rural areas. This argument implies that the proposed endeavor is important because the economic impact of international student recruitment overall is important. As outlined previously, our focus is how the specific endeavor will impact the field on a level commensurate with national importance, it is not the importance of the field that determines an endeavor's national importance. *See Dhanasar*, 26 I&N Dec. at 889.

While the Petitioner has presented evidence of how he has helped his individual clients make more money, he has not provided sufficient evidence to establish that his recruitment efforts in particular will have such an impact that they constitute national importance due to their economic impact. The Petitioner has therefore not submitted sufficient information and evidence to demonstrate the prospective impact of his proposed endeavor rises to the level of national importance. Accordingly, the record does not sufficiently demonstrate that the Petitioner's proposed endeavor is of national importance.

In the same way that *Dhanasar* finds that a classroom teacher's proposed endeavor is not nationally important because it will not impact the field more broadly, we find that the record does not establish that the Petitioner's proposed endeavor will sufficiently extend beyond his clients to affect the region or nation more broadly. 26 I&N Dec. at 893. He has not shown that benefits to the regional or national economy resulting from the Petitioner's undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890.

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 identified 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 find that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.