U.S. Citizenship and Immigration Services

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

In Re: 43197037

Date: JULY 1, 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 graphic designer, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 is eligible for the underlying EB-2 classification as an advanced degree professional, the record did not establish that he is eligible for, and merits as a matter of discretion, a national interest waiver. 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. ANALYSIS

We initially note that the evidence in the record does not sufficiently show that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree. The record contains two academic credential evaluation reports,[2] but neither of these evaluations correctly identified any U.S. equivalent of a bachelor's degree for the Petitioner; instead, they equate various degrees, certificates, and employment to be equivalent to "a Master's Degree in Graphic Design" without proper explanation that matches the regulatory language at 8 C.F.R. § 204.5(k)(2). Also, the record is unclear as to whether the Petitioner intended to claim that he qualifies for the underlying classification as an individual of exceptional ability. However, we need not reach and therefore reserve the Petitioner's eligibility for the EB-2 classification either as an advanced degree professional or an individual of exceptional ability as we conclude that the Petitioner has not established that he is eligible for the national interest waiver under *Dhanasar*, as discussed below. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

In evaluating *Dhanasar*'s three prongs to determine whether the Petitioner is eligible for a national interest waiver, USCIS concluded that: 1) the Petitioner established substantial merit but not national importance of his proposed endeavor; 2) the Petitioner is well-positioned to advance his endeavor;[3] and 3) the Petitioner has not established that on balance, it is in the national interest to waive the job offer requirement.

Upon review, we conclude that the evidence is insufficient to establish the proposed endeavor's substantial merit and national importance,[4] and affirm USCIS' decision that the Petitioner has not satisfied the first prong of *Dhanasar*, as discussed below. As such, detailed discussion of the remaining *Dhanasar* prongs cannot change the outcome of this appeal and we reserve our opinion on the second and third *Dhanasar* prongs. *See id.*

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology,

[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] One evaluation is from GEO credential services dated September 30, 2021, and another evaluation is from USCES.org dated March 7, 2019.
[3] USCIS did not provide any analysis of the record for the second prong determination.
[4] In doing so, we withdraw USCIS' prior determination that the Petitioner has established his endeavor's substantial merit.

culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* Here, the Petitioner has not clearly identified his proposed endeavor nor submitted persuasive evidence to support his claims. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

On Form I-140, Immigrant Petition for Alien Worker, the Petitioner indicated that his job title is a "web and digital designer." In his personal statement and professional plan, the Petitioner stated that he is "Senior Head Designer, Senior Art Director, Lead Designer" of [redacted] LLC [redacted] in [redacted] Florida,[5] and explained that his proposed endeavor is "to add value and result in American companies that are interested and wish to improve their brand value (equity brand), their position on the internet and/or social media (proof and social reputation), quality and effectiveness of printed productions in design, through a specialized consultancy service." At the same time, the Petitioner also expressed his intention "to develop an online platform for professional training for various areas of specialization such as: design, digital, marketing, communication, art, design, etc." and "disseminate knowledge and prepare young and newly graduated professionals for the American job market, providing an exchange of knowledge and culture, with the most modern and innovative aspects of design and digital in the world." In addition, the Petitioner indicated that he is "in the development phase of a [redacted] focused on recovering ethical and moral principles for the family, as well as for children and adolescents" and will design and distribute comics that deal with moral and faith-related issues in schools, publics places, and churches.

To support these claims, the Petitioner submitted his design portfolios and past projects, his resume, recommendation letters from his prior employers, job offers and interview requests from various companies, verification of his current employment and salary, and an expert letter discussing the Petitioner's endeavor to advance his career in "graphic and corporate design, art direction, branding, and marketing to help improve U.S. businesses" and "act as a consultant to American companies." The Petitioner also provided his business plan for '[redacted] LLC,"[6] a digital marketing and design agency that he created in the United States. The business plan states that he will offer "customized and the highest quality services as per the needs and requirements of the customers" and the services will include graphic and editorial design, web design, digital marketing strategy, multimedia presentation, social media, advertising online, and other digital design targeting "[e]ntrepreneurs, executives, SEO, business owners, startups, small & medium size companies, corporate, and all other related people in interested in our services."

However, his response to the request for evidence (RFE), including his personal statement and new evidence, no longer reflected his original intention of providing consulting services to American companies or training young professionals in digital design. In his RFE response, the Petitioner focused solely on advancing his "[redacted]" and claimed that "the [redacted] holds significant national importance for the United States by addressing critical social issues such as child abuse, human trafficking, drug addiction, and more – challenges that directly impact the well-being of U.S. communities." He offered a new personal statement stating his intention

[5] The record indicates that [redacted] develops and builds luxury vacation houses in Florida.
[6] We note that the initial petition referred to his company as [redacted] LLC, but in the RFE response, the Petitioner referenced his company as [redacted] LLC.

to "develop the [redacted] to instill ethical and moral values in families and youth" which features "comic books and illustrations addressing critical societal issues such as bullying, substance abuse, and human trafficking, focusing on values like love, faith, and respect." The Petitioner also asserted that his company "[redacted] LLC will play a crucial role in supporting the [redacted] by handling the execution and production of its educational content." Moreover, the Petitioner included new reference letters from church pastors or religious leaders solely focused on his qualifications and commitment to his Christian principles, and provided new articles and data on child abuse, bullying, drug addiction, domestic violence, human trafficking, and others as societal problems that require solutions. The Petitioner further secured a letter from [redacted], his current employer, stating that it is "considering potential financing support for the [redacted]" Essentially, the Petitioner appeared to abandon his original plans to support American companies through his consulting services, train young professionals in digital marketing, or continue working as a head designer for [redacted].

Here, the Petitioner has not persuasively described his proposed endeavor such that we can properly evaluate its substantial merit and national importance. Ultimately, the substantial merit and national importance of the proposed endeavor depend on a sufficiently specific, detailed, and consistent description of that endeavor. The Petitioner has not proposed a coherent endeavor that would encompass all these disparate and disconnected activities. The Petitioner initially claimed that he will continue his work with his current employer but also operate his own business providing consulting services to American companies. The Petitioner did not adequately explain how he intends to combine his current employment and his entrepreneurial endeavor. Later, the Petitioner changed the focus of his endeavor to marketing faith-based materials aimed at addressing societal issues and concerns regarding youths but did not persuasively explain how the changed focus of his endeavor aligns with the originally described endeavor of providing consulting services to other businesses and training other professionals in digital design. Being a "graphic designer" is a broad category rather than a specific proposed endeavor and using an umbrella term such as "graphic designer" does not unify these diverse activities into a coherent proposed endeavor.

On appeal, the Petitioner claims that the USCIS' decision erroneously conflated geographic scope with national importance, improperly discounted the capacity for national impact due to the developmental stage of the endeavor and its entrepreneurial nature, and mischaracterized the proposed endeavor. But beyond these general contentions, the Petitioner does not identify specific instances of errors in the denial nor sufficiently explain the incongruities found in his proposed activities with persuasive evidence. The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Here, the Petitioner has not met his burden.

Therefore, we conclude that the Petitioner has not provided a consistent and coherent description of his proposed endeavor and without a specific and tailored endeavor supported by independent and probative evidence, the Petitioner has not established national importance or substantial merit under the first prong of *Dhanasar*.

## 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.

**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.