U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40785131

Date: JULY 8, 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 labor relations expert and an entrepreneur in the field of workforce management and employee relations, 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 consulting firm specializing in "developing and implementing innovative, cost effective contract management, regulatory and business compliance, and compensation schemes and matrices that balance employee needs with the fiscal realities of an organization, allowing both companies and employees to thrive." He asserts that his company will improve his clients "finances while ensuring compliance and reducing labor liabilities."

A. EB-2 Classification

The Petitioner submitted his foreign law degree, along with his academic transcripts demonstrating that he completed four years of coursework, from 1991 to 1995. Additionally, the Petitioner submitted letters showing over five years of progressive experience. USCIS determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether he qualifies for and merits a waiver of the job offer requirement in the national interest.[2]

B. Substantial Merit and National Importance

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.*

[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 each piece of evidence individually, we have reviewed and considered the record in its entirety.

On appeal, the Petitioner contends USCIS "misapplied *Dhanasar* by requiring present-day macroeconomic outputs and funding proofs to establish national importance." In addition, he contends USCIS discounted probative evidence including expert opinion letters and letters of interest without identifying any credible defects or methodological flaws. The Petitioner also asserts that his endeavor has national importance because the evidence in the record "shows nationwide applicability to [small and medium-sized enterprises (SMEs)] and field-level implications (compliance, retention, wage integrity)."

First, we disagree with the Petitioner's contention that USCIS required "macroeconomics outputs and funding proofs" to show national importance. The Petitioner initially asserted that his proposed endeavor is of national importance "because of its potential to create significant economic and societal benefits, stemming from the introduction of innovative compensation schemes" and that it has significant potential to employ U.S. workers. However, USCIS noted that the Petitioner "does not offer a sufficient basis to conclude that the economic effects of the proposed endeavor will affect the U.S. gross domestic product or tax revenues, nor does he offer an estimate of how many, and which jobs the proposed endeavor will create." Here, USCIS is stating that the Petitioner has submitted no documentation or other evidence to support his assertions. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 375-76.

We reviewed the eight expert testimonial letters submitted with the initial petition and in response to USCIS' request for evidence (RFE).[3] The letters submitted with the initial petition primarily discuss the Petitioner's accomplishments and speak highly of the Petitioner's effectiveness on his past projects in Venezuela and Colombia. For instance, S-G-B- of [redacted] states that the Petitioner's impact on a project "was both profound and multifaceted" because "[h]e skillfully designed a compensation strategy aligned with the new legal framework, ensuring compliance while optimizing financial outcomes for the executives and the company." Moreover, the letter from I-P-A- of [redacted] states that the Petitioner led a strategic negotiation where he "established economic and legal standards to protect the employees' benefits during this transition" and that "[h]is leadership in negotiating with the worker coalition was paramount in securing agreed-upon benefits, showcasing his skills in complex negotiation situations." The Petitioner's professional experience is generally material to *Dhanasar's* second prong, whether an individual is well positioned to advance a proposed endeavor, but they are generally immaterial to the first *Dhanasar* prong, whether a specific, prospective, proposed endeavor has both substantial merit and national importance. *Matter of Dhanasar,* 26 I&N Dec. at 888-91.

As for the expert testimonial letters submitted in response to the RFE, they discuss the proposed endeavor and its claimed benefits. However, the authors' opinions are largely conclusory and do not adequately explain how the Petitioner's work would produce such nationally important impacts. For example, V-G- of [redacted] opines that the Petitioner's "strategies will not be confined to a single firm but ripple across multiple organizations, industries, and even geographic regions" and "his work will contribute directly to job creation and economic resilience." But beyond these generalizations, V-G- provides little explanation or corroborating evidence directly linking the Petitioner's work to these claimed benefits, the economy's growth, industry wide impact, or other substantial positive economic or societal effects.

[3] Some of the letters are not on letterhead.

In addition, R-A-A-'s opinion is general in nature and does not meaningfully address the details of the Petitioner's specific work and how it, in particular, would produce the nationally important impacts claimed. Rather, he makes broad generalizations, such as:

- Directly reduce labor liabilities for U.S. companies, ensuring financial resilience in volatile economic environments.
- Help foreign companies hire and retain American workers while complying with U.S. employment law, increasing lawful employment and payroll tax revenue.
- Facilitate expansion of U.S. companies into Latin American markets, a clear U.S. commercial diplomacy policy objective.
- Drive job creation within the United States, both through his firm's employment and through the business expansion of client companies.

But he provides little explanation as to how the Petitioner's endeavor, in particular, would specifically accomplish these results. He also provides little corroborating evidence directly linking the Petitioner's services to any broader impacts in the industry, region, or nation as claimed.

Because the opinion letters do not support their conclusory statements with supporting information material to the issue of whether the specific endeavor the Petitioner proposes to undertake may have the type of broader implications indicative of national importance, they do not support the conclusion that the proposed endeavor may have national importance, as contemplated by the first *Dhanasar* prong. USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int'l,* 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a noncitizen's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id., see also Matter of D-R-,* 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value).

Moreover, the Petitioner places considerable emphasis on the importance of small and medium-sized enterprises (SMEs) and submitted various articles and reports discussing this area. The Petitioner speaks in generalities and relies on the potential benefits that the overall optimization of SMEs has on the economy and societal welfare and claims that by offering custom compensation strategies and remote workforce solutions for SMEs, his endeavor will contribute to job creation and economic growth. He also contends that his endeavor aligns with national initiatives promulgated through the U.S. Department Labor and the White House. He asserts that his "scalable frameworks help employers implement inclusive compensation structures that elevate job quality, advance workplace equity, and support broader workforce participation" and that his "approach ensures that American businesses and workers are the primary beneficiaries of global economic engagement, strengthening U.S. competitiveness and labor resilience."

The Petitioner, however, neglects to focus on the prospective impact of his specific endeavor. In particular, he does not demonstrate how his specific endeavor would achieve these goals and have a broader impact on the field, region, or nation. The articles and reports provide only general background information on the aforementioned areas and do not specifically relate to or discuss the Petitioner's proposed endeavor, including how his specific endeavor might impact these areas more

broadly. And while we acknowledge the overall importance of SMEs generally, as noted above, the pertinent 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." *Matter of Dhanasar*, 26 I&N Dec. at 889. Simply working in an important field is insufficient to establish the proposed endeavor's national importance. The Petitioner must still demonstrate the specific endeavor's potential prospective impact in that area of national importance.

In *Dhanasar,* we also 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 has not established how providing his consulting services stands to sufficiently extend beyond his business and his future clients to impact the field more broadly at a level commensurate with national importance. While we acknowledge the letters of intent, the evidence does not establish the proposed endeavor's national importance because they only highlight that the endeavor's impact is to the individual client or companies that hire the Petitioner to provide his services. Here, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his future clients to impact the field of workforce management and employee relations, the economy, or U.S. societal welfare more broadly at a level commensurate with national importance.

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.[4] *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.

[4] USCIS determined without analysis that the Petitioner established he is well-positioned to advance his proposed endeavor.