U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42987848

Date: JULY 31, 2026

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

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

The Petitioner is a business owner who 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 (NIW) 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).

Through its Service Center Operations (SCOPS), USCIS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the record established that the Petitioner qualified for the underlying visa classification, but he did not merit a discretionary waiver of the job offer requirement in the national interest. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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. *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, 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. USCIS' decision to grant or deny an NIW is discretionary in nature. *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the First, Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals).

II. ANALYSIS

A. National Interest Waiver

1. Substantial Merit and National Importance (Collectively *Dhanasar's* First Prong)

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, culture, health, or education. *Id.*

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* When we evaluate national importance, the relevant question is not the importance of the industry or profession in which the alien will work. Rather, we focus on the "the specific endeavor that the alien proposes to undertake" and we look to evidence illustrating the "potential prospective impact" of their actual proposed work. *Id.* A petitioner must demonstrate the proposed endeavor will "impact the field . . . more broadly" (*Id.* at 893) and that it has "broader implications" (*Id.* at 889). Such endeavors *may* have "national or even global implications within a particular field such as resulting from certain improved manufacturing processes or medical advances" (*Id.* at 889), have the potential to widely advance and broadly affect U.S. strategic interests (*Id.* at 892), or "particularly in an economically depressed area" the "significant potential to employ U.S. workers or [have] other substantial positive economic effects" (*Id.* at 890).

USCIS policy also provides that "if the evidence of record demonstrates that the person's proposed endeavor has the significant potential to broadly enhance societal welfare or cultural or artistic enrichment, or to contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance." *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual (citing *Matter of Dhanasar*, 26 I&N Dec. at 889–90, 892).

The Petitioner's proposed endeavor is to use his current company "for the production of fruit preserves, jam, and it is also planned to produce products from raw materials that do not contain GMOs and preservatives." As it relates to the national importance requirement, SCOPS concluded that his efforts did "not meet the threshold for national interest," did "not present any innovative methods or significant advancements beyond existing practices," and did not "distinguish[] his work from that of other professionals in the field."

We agree with that assessment and the Petitioner offers little on appeal to refute SCOPS' evaluation of his proposed endeavor. Instead, he notes his endeavor will address a matter of public health importance, strengthen domestic agricultural supply chains, build and expand a business that employs American workers, and influence broader industry practices through increased consumer demand for healthier and more natural food products. But those simple assertions remain inadequate.

First, simple alignment or shared common aspects with national initiatives or goals (e.g., addressing a public health matter or strengthening domestic supply chains) are not sufficient to meet the first prong's national importance requirement. That approach would be improper as it would blur the distinction between an endeavor's subject matter and its prospective impact. Under *Dhanasar*, the relevant inquiry is not whether the endeavor falls within a field that the government generally considers important. National initiatives often identify broad policy aspirations, but they include numerous activities of varying significance. If alignment with a national priority alone were sufficient, virtually any endeavor within a favored industry or occupation would automatically satisfy the national importance requirement, effectively rendering *Dhanasar's* prong one analysis meaningless.

At its core, the analysis should focus on the endeavor's anticipated prospective impact and whether its influence extends beyond the interests of a particular employer, client base, or localized geographic area. *Matter of Dhanasar*, 26 I&N Dec. at 889. A petitioner must demonstrate, through specific and objective evidence, how the proposed endeavor itself is likely to produce effects of broader consequence, such as advancing an industry, influencing practices or standards, generating significant economic effects, or otherwise creating benefits that are substantial on a national level. *Id.* General assertions that an endeavor supports a governmental priority do not, by themselves, establish that the endeavor will produce nationally important outcomes. While such an alignment may provide contextual support for the significance of the field, it is not a substitute for evidence demonstrating that a petitioner's particular endeavor is likely to have the requisite level of impact. Alternatively, the national importance requirement mandates a proposed endeavor include aspects that have "national or even global implications within a particular field" or "particularly in an economically depressed area" have "substantial positive economic effects." *Id.* at 889–90.

In summary, while consistency with national priorities may be a relevant consideration in evaluating the context in which an endeavor operates, it is neither dispositive nor persuasive as part of the national importance inquiry. The proper analysis requires an individualized assessment of the proposed endeavor's projected impact based on potential influence in the broader field. *Id.* at 893. Concluding that national importance exists solely because an endeavor aligns with a governmental initiative risks replacing the fact-specific inquiry *Dhanasar* requires with a rule that the precedent does not support. That interpretation is inconsistent with the purpose of the first prong, which requires evidence that the endeavor itself—not just the policy area in which it is situated—is likely to produce consequences of national importance.

Second, the Petitioner states that through his endeavor he will build and expand a business that employs American workers. But while any basic economic activity has the potential to positively impact a local economy, the Petitioner has not demonstrated how the economic activity directly resulting from his endeavor would rise to the level of national importance. Additionally, given the limited projections included in the Petitioner's business plan, we are unable to ascertain whether his company's operations will operate on such a level to result in the significant economic benefits contemplated in *Dhanasar*.

And finally, the Petitioner's intention to "influence broader industry practices through increased consumer demand for healthier and more natural food products" has little basis to support this claim. The Petitioner's assessment of the level of the proposed endeavor's impact in the broader industry is not sufficiently supported in the record.

Within his business plan, the Petitioner indicated his company is "dedicated to producing non-GMO and sugar-free jams and preserves" to address national health issues, the company will "actively contribute to reducing added sugar consumption by offering healthier alternatives that help people make better dietary choices," their "products support the government's initiatives to reduce sugar consumption [and by] offering jams and preserves without added sugars, we align with national dietary guidelines, helping to meet the goals of reducing sugar in food." Through the business plan, the Petitioner conveys similar concepts of aligning their activities with the government's efforts of healthier eating.

But the record does not suggest that the Petitioner's healthier food alternatives somehow differ from, or improve upon, those already available and in use in the United States. The Petitioner does not sufficiently describe the national implications of a single company operating in one state with a projection of employing 15 personnel after five years of business or the broader implications his endeavor's efforts to improve the production quality "of fruit preservatives, jam, and . . . products from raw materials that do not contain GMOs and preservatives." The *Dhanasar* decision contemplates that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Matter of Dhanasar*, 26 I&N Dec. at 893. The Petitioner has not preponderantly established the extent to which the proposed endeavor will benefit the United States or how it will impact the field more broadly, which the *Dhanasar* precedent requires.

Because the Petitioner has not sufficiently established the national importance of his proposed endeavor as required by *Dhanasar's* first prong, he has not demonstrated eligibility for an NIW of the job offer requirement.

2. We Reserve *Dhanasar's* Remaining Second and Third Prongs

As we explain above, *Dhanasar's* second and third prongs require the Petitioner to demonstrate he is eligible for an NIW meeting additional requirements. But because the Petitioner has not established that his proposed endeavor satisfies the *Dhanasar* framework's first prong, he is not eligible for an NIW and further discussion of the second and third prongs would serve no meaningful purpose. Consequently, we will not address and we reserve the Petitioner's remaining appellate arguments. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also Matter of Vizcaino Aybar*, 29 I&N Dec. 736, 738 (BIA 2026) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden.

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.