U.S. Citizenship and Immigration Services

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

In Re: 36818330

Date: MAY 21, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an automotive technician, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding the record did not establish that the Petitioner qualified for EB-2 visa classification or a national interest waiver. The matter is now before us on appeal. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[1] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality

[1] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

shows that they are recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. Section 203(b)(2)(A) of the Act.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." *Id. 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,[2] 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.

*See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

## II. EXCEPTIONAL ABILITY

The Director concluded that the Petitioner did not establish his eligibility under the EB-2 classification as an individual of exceptional ability.[3] As discussed below, because the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, we decline to reach and hereby reserve arguments concerning his eligibility under the EB-2 classification. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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. NATIONAL INTEREST WAIVER

The issue to be determined on appeal 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.

The Petitioner initially stated that he intended to operate an automotive care business. Offering a range of services, his company would specialize in electric and hybrid vehicle maintenance and lithium battery care. His business plan provides the following:

> The Petitioner will initially establish his business' operations in [redacted] Florida, where he intends to build a solid and strong relationship with the local residents and national companies in need of his services, especially those acting in the vehicle engineering and maintenance market.
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> . . .

[2] *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 to be discretionary in nature).

[3] We note that the Petitioner did not claim—and the record does not demonstrate—that he qualifies for the EB-2 classification as an advanced degree professional.

> With the growing popularity of hybrid and electric vehicles, [the company's] expertise in maintaining and servicing these vehicles aligns with the environmentally conscious mindset prevalent in the area. By establishing a reputation for excellence, professionalism, and expert knowledge, [the company] can tap into the existing demand for high-quality auto services in [redacted] and build a loyal customer base within the city's competitive auto mechanics industry.

Although the Director determined that the Petitioner's proposed endeavor has substantial merit, the Director concluded the record did not establish that the endeavor is of national importance. On appeal, the Petitioner asserts that the Director did not adequately explain the reasons for denying the petition. Upon review, for the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his endeavor in order to establish his eligibility under the first prong of the *Dhanasar* analytical framework.

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. We agree with the Director that the Petitioner established that his proposed endeavor has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. 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." *Id.* 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. Further, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. *Id.* at 889.

The Petitioner has provided reports and articles discussing the automotive industry, as well as documentation outlining government initiatives concerning the importance of developing electric vehicle technology. Although the Petitioner asserts that his endeavor will further certain objectives described in this documentation, the material itself does not specifically address the Petitioner's proposed endeavor or speak to how it would have a potential prospective impact of national importance. Similarly, letters of support from former colleagues and customers discuss the Petitioner's skills and abilities, but they do not provide specific information concerning the Petitioner's proposed endeavor. Although these letters of support laude the Petitioner's qualifications as an automotive technician, they do not illuminate how the Petitioner's proposed endeavor would be of national importance to the United States. We note that evidence of work experience generally relates

not to the national importance of an endeavor, as discussed in the first prong of *Matter of Dhanasar*, but to the second,[4] which evaluates whether an individual is well positioned to advance an endeavor.

Regarding the Petitioner's proposed endeavor to operate an automotive care business, he has not explained how the operation or impact of his endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. The Petitioner's business plan describes his intention to employ 22 workers by his company's fifth year of operation, generating a total of $1,027,556 in payroll costs; the business plan forecasts sales totaling $1,425,000 by the company's fifth year, with tax payments that year at $203,651—up from $51,345 paid during the company's first year. The Petitioner, however, has not explained how his operation of a single automotive care establishment—one among tens of thousands in the United States and one among thousands specializing in electric vehicles, the number of which he states is projected to reach 100 million globally by 2026—would have a national impact in the industry. While the Petitioner emphasizes a growing demand for automotive services in a variety of economic sectors following a decrease in demand during the coronavirus pandemic, the projections provided in the business plan reflect an establishment that will benefit from high demand limited to the company's immediate customers, rather than a business operating at a scale necessary to impact any purported increase in national demand for automotive services.

We note that the projections in the Petitioner's business plan were based on data from a Regional Input-Output Modeling Systems (RIMS II) analysis, which used calculations based on the industry category of "Automotive repair and maintenance" to forecast outcomes, such as job creation. The Petitioner, however, has not sufficiently demonstrated that this broad category properly captures the potential impact of his particular business endeavor, which he states will specialize in specific areas of automotive care; he has therefore not shown that these general statistics on a broad category of economic activities substantiate the national importance of his proposed endeavor. Moreover, the RIMS II modeling tool relies on various assumptions, including those made by the Petitioner, leaving the prospective impact of his proposed business uncertain. The business plan does not provide a sufficient basis for the company's forecasts, nor are the numbers corroborated by probative evidence sufficient to demonstrate that it is more likely than not that the business will have a substantial positive economic effect within the field. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor based on its potential job creation or impact on the U.S. economy.

Further, while we may consider whether a proposed endeavor has national importance in terms of whether it has 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,[5] the Petitioner's assertions here are broad and unsubstantiated. Concerning issues of public health and environmental causes, the Petitioner's business plan discusses his intention to offer services related to "vehicle reprogramming for the reduction of pollutant gas emissions," as well as offering "engine recalibration with a focus on pollution reduction, providing a more accessible alternative for the

[4] Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* framework, determinations concerning the second and third prongs are unnecessary to the ultimate decision; therefore, they will be reserved in this decision.

[5] *See* 6 USCIS Policy Manual F.5(D)(1).

American population while contributing to the decrease in toxic emissions." These and other services, he states, will "directly impact the field of science and contribute to improving the welfare of the local population, through services that promote reduction of environmental pollution." Although the proposed endeavor as described is one of substantial merit, it is unclear how the Petitioner's individual business would address these issues on a level that is nationally impactful.

For example, the Petitioner asserts that, in "the evolving landscape of the American automotive industry, companies like [his company] are instrumental in bringing forth innovation," and his business plan also emphasizes his intention to invest in researching and developing technologies to further advance electric vehicle capabilities and benefits. While the Petitioner's services may impact the performance of vehicles for his immediate customers, his assumptions that his company will address the larger societal issues he describes are not supported by evidence in the record. He has not provided any evidence concerning, for instance, technology he has developed or improved upon that would have an application scalable to the automotive repair industry and that, in turn, could potentially have an impact on a national or global level.

The Petitioner also emphasizes the national importance of his proposed endeavor in terms of the importance of the transmission of knowledge to address shortages of qualified labor. His business plan provides the following:

> [T]he company's commitment to offering comprehensive training and educational services will help cultivate a skilled workforce in the U.S., directly aligning with national efforts to strengthen the science, technology, engineering, and mathematics (STEM) talent pool. By providing training in the area of automotive mechanics and vehicle remapping, [the company] will empower U.S. citizens and permanent residents with specialized skills that can spur innovation and ensure the U.S. remains competitive in the global automotive industry.
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> [The company's] commitment to preserving automotive history through the restoration of vintage and classic cars also holds cultural and historical significance. By restoring these vehicles to their former glory, the company is playing a part in preserving and promoting the rich heritage of American automotive design and engineering, which holds a place of pride on the national stage.

Here, while the Petitioner's proposed endeavor might make contributions within these areas in ways that are localized to his company's own clientele and the success of his individual business, it is not clear from the record how contributions of that limited degree would have an impact at a national level—to assuage, for example, any national shortage in qualified STEM job candidates. USCIS recognizes the importance of progress in STEM fields, especially in critical and emerging technologies or other STEM areas important to U.S. competitiveness or national security.[6] However, the Petitioner's activities, by themselves, generally are not indicative of an impact in the field of automotive mechanics or technology education more broadly. Similarly, 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. Again, in determining national importance

[6] *See generally* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policymanual.

within the *Dhanasar* framework, the relevant question is not the importance of the field, industry, or profession in which the individual will work, but the specific endeavor that the individual will undertake. *Id.* at 889.

The Petitioner has not demonstrated that his proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the nation. Specifically, he has not shown that his business stands to provide substantial economic benefits to any particular locality or to the United States overall. While the Petitioner describes an endeavor offering automotive services intended to bring benefits related to improved electric vehicle performance, STEM labor availability, the environment, and human health, it is not clear how a business of the size and scope described would significantly impact these issues at a national level.

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because 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. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7.

## III. CONCLUSION

The Petitioner has not demonstrated that the proposed endeavor has national importance. As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

**ORDER:** The appeal is dismissed.