



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 28455846

Date: AUG. 28, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a financial manager and 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). 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. The Director concluded that although the Petitioner established eligibility for EB-2 classification as a member of the professions holding an advanced degree, the record did not demonstrate his eligibility for the requested 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. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.¹ 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest."

¹ Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term “national interest,” 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 discretion², 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.

II. ANALYSIS

The Petitioner proposes to establish a financial management and information technology consulting business in the United States having previously worked as a business analyst, test specialist, and project manager for the banking and finance industries in Turkey. He holds an undergraduate diploma in business administration from [redacted] University in Turkey and a master of arts degree in banking and finance from [redacted] University in Turkey. The Director determined that the Petitioner established his eligibility as a member of the professions holding an advanced degree.³

However, the Director concluded the Petitioner did not establish that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. The Director found that while the Petitioner demonstrated the proposed endeavor has substantial merit, he did not establish that the proposed endeavor is of national importance, as required by the first Dhanasar prong. The Director further found that the Petitioner did not establish that he is well positioned to advance the proposed endeavor, and that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification. Upon de novo review, we agree with the Director’s determination that the Petitioner did not demonstrate that a waiver of the labor certification would be in the national interest.⁴

The first prong of the Dhanasar analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner 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 national importance, the relevant 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.

The Petitioner proposes to establish a financial management and information technology consulting business for which he would be its chief executive officer. The business plan states that the Petitioner’s business would provide a specific market niche by providing business process mapping and assessment, business KPI definition and implementation, financial process outsourcing, software

² See also *Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

³ To demonstrate he is an advanced degree professional, the Petitioner submitted his diplomas, his academic transcripts, and an academic evaluation. The record demonstrates that he holds the foreign equivalent of a U.S. master’s degree in banking and finance. See 8 C.F.R. § 204.5(k)(3).

⁴ While we may not discuss every document submitted, we have reviewed and considered each one.

testing outsourcing, and financial process redesign targeting the consulting sector. The business would have its main office in the Houston area of Texas to help “fuel small business growth in historically underutilized business zones” (emphasis in original). We agree with the Director that the Petitioner’s endeavor has substantial merit.

Even though the Petitioner’s proposed endeavor has substantial merit, the Director found that the Petitioner did not establish that his proposed endeavor “will have a broader impact on the Financial Management field, outside of his prospective local community,” and therefore, “the [P]etitioner has not met his burden in meeting the ‘national importance’ element of the first prong of the Dhanasar framework.”

The Petitioner contends on appeal that the Director did not apply the proper standard of proof, instead imposing a stricter standard, and erred by not giving “due regard” to the evidence submitted, specifically the Petitioner’s resume, his business plan, his definitive statement, and industry reports and articles. Upon de novo review, we find the Petitioner did not demonstrate that his proposed endeavor satisfies the national importance element of *Dhanasar’s* first prong, as discussed below.

The standard of proof in this proceeding is a preponderance of evidence, meaning that a petitioner must show that what is claimed is “more likely than not” or “probably” true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.*; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm’r 1989). Here, the Director properly analyzed the Petitioner’s documentation and weighed the evidence to evaluate the Petitioner’s eligibility by a preponderance of evidence.

On appeal, the Petitioner argues that his proposed endeavor has national importance, particularly because it will “generate substantial ripple effects upon key business activities on behalf of the United States” and would be “a vital aspect of U.S. financial operations and productivity, [sic] which contributes to a revenue-enhanced business ecosystem, and an enriched, productivity-centered economy.” (emphasis in original). The Petitioner stresses his more than 29 years “of progressive experience and acumen in the finance field” and his educational credentials to argue that his “work offers broad implications to the United States’ finance industry, specifically through his endeavors within key commercial segments.” (emphasis in original). The Petitioner argues his proposed endeavor will benefit the United States “by creating jobs and economic stability.” He relies on his background to emphasize that he “has brought numerous advantages to the organizations that he has served . . .” by stimulating “his served companies’ economic capacities” and prioritizing “customer satisfaction by ensuring all projects are aligned with customer’s actual needs, furthering customer loyalty.” The Petitioner argues the United States “would benefit from investing in well-versed financial professionals such as [the Petitioner], who are knowledgeable regarding potentially profitable markets for U.S. companies in regions that are economically and politically strategic, yet extremely complex.” (emphasis in original). He contends his “proposed endeavor will have multiple positive effects on the U.S. marketplace, thus enhancing business operations on behalf of the nation, and contributing to a streamlined economic landscape.” The Petitioner asserts his “proposed endeavor is clearly of national importance, when considering how much a professional with his caliber can contribute to the national interests, and to the U.S. economy, regardless of a labor certification.” (emphasis in original).

However, the Petitioner's reliance on his academic credentials, professional experience, and achievements to establish the national importance of his proposed endeavor is misplaced. His academic credentials, professional experience, and achievements relate to the second prong of the Dhanasar framework, which "shifts the focus from the proposed endeavor to the foreign national." Matter of Dhanasar, 26 I&N Dec. at 890. The issue here is whether the specific endeavor that the Petitioner proposes to undertake has national importance under Dhanasar's first prong. 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. See id. at 889.

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. The record does not demonstrate that the Petitioner's proposed endeavor will substantially benefit the fields of financial management and information technology, as contemplated by Dhanasar: "[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." Id. The evidence does not suggest that the Petitioner's consulting business would impact the financial management and information technology fields more broadly.

With the petition, the Petitioner submitted his statement and a business plan contending his proposed endeavor has national importance based on potential economic and societal benefits. The Petitioner claims that his proposed endeavor would generate jobs for U.S. workers in underserved areas, improve wages and working conditions for U.S. citizens, increase investment and economic development in local communities, and increase national and international integration and productivity. However, the Petitioner has not provided corroborating evidence to support his claim that his business' activities stand to provide substantial economic and societal benefits to the United States. The Petitioner's claims that his financial management and information technology consulting business will benefit the U.S. economy and enhance societal welfare has not been established through independent and objective evidence. The Petitioner's statements are not sufficient to demonstrate his endeavor has the potential to provide economic and societal benefits to the United States. The Petitioner must support his assertions with relevant, probative, and credible evidence. See Matter of Chawathe, 25 I&N Dec. at 376. Also, without sufficient documentary evidence that his proposed job duties as the chief executive officer for his business would impact the financial management and information technology industries more broadly, rather than benefiting his consulting business and his proposed clients, the Petitioner has not demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance.

The Petitioner submitted a business plan, which explains his intended ownership and financial investment in the business; establishment of its office in an underutilized business area [redacted] Texas; the business' products and services and an analysis of the demand for financial management and information technology consulting products and services; and the business' proposed marketing, staffing, and financial forecasts. The business plan briefly indicates that it proposes to establish the business in underutilized business zones, claiming this will generate jobs for U.S. workers in these underutilized areas, will improve the wages and working conditions for U.S. workers, and will improve the safety and life quality of U.S. citizens. The business plan describes the proposed consulting business; its establishment in an underutilized area of [redacted], Texas; the Petitioner's

experience; and the financial management and information technology industries. However, it does not sufficiently document the potential prospective impact, including the asserted economic and societal benefits to the United States.

The business plan projects that in five years the consulting business will hire 15 direct employees, pay wages of 3.78 million dollars, and generate thirty thousand dollars in rental income for the local community. However, the record does not sufficiently detail the basis for its financial and staffing projections, or adequately explain how these projections will be realized.

The Petitioner also has not provided corroborating evidence demonstrating that his business' future staffing levels and business activities stand to provide substantial economic benefits to underutilized areas of Texas and the United States. While the Petitioner expresses his desire to contribute to the United States and its underutilized areas, he has not established with specific, probative evidence that his endeavor will have broader implications in his field, will have significant potential to employ U.S. workers, or will have other substantial positive economic effects in an economically underutilized area of [redacted] Texas. The Petitioner must support his assertions with relevant, probative, and credible evidence. See *id.* Even if we were to assume everything the Petitioner claims will happen, the record lacks evidence showing that creating 15 direct jobs and paying wages of 3.78 million dollars and commercial rent of over thirty thousand dollars over a five-year period rises to the level of national importance.

The Petitioner further claims on appeal that the national importance of his proposed endeavor is evidenced in industry reports and articles. The reports and articles relate to the economic benefits of immigrants and entrepreneurship; labor shortages in the banking and financial services industries, workforce concerns in the finance and accounting industries; corporate growth opportunities; and financial professionals helping against cybersecurity threats. We recognize the importance of the finance industry and related careers, and the significant contributions from immigrants who have become successful entrepreneurs; however, merely working in the financial services and information technology fields or starting a financial management and information technology consulting business is insufficient to establish the national importance of the proposed endeavor. 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 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. The industry reports and articles submitted do not discuss any projected U.S. economic impact or job creation specifically attributable to the Petitioner’s proposed endeavor.

We further note that the record includes an expert opinion from [redacted] professor emeritus of accounting and operations management of finance at [redacted] University, [redacted] School of Business in New York. The opinion includes an analysis of the national importance of the Petitioner’s proposed endeavor stating, “[The Petitioner] will work in an area of substantial merit and national importance.” (emphasis omitted). The opinion explains the Petitioner’s professional

experience, the expected growth of job opportunities for financial managers, and the job responsibilities of financial managers. However, the opinion's focus on the need for financial managers and how the Petitioner's professional experience makes him well positioned to help the financial management industry with his professional skills, does demonstrate that the Petitioner's specific endeavor may have a prospective impact in his field. The opinion does not focus on the Petitioner's specific endeavor and it having a potential prospective impact on the U.S. economy, or in the fields of his proposed endeavor, financial management and information technology consulting. Simply stating that his work would support an important industry is not sufficient to meet the "national importance" requirement under the Dhanasar framework.

The Petitioner does not demonstrate that his proposed endeavor extends beyond his business and his future clients to impact the field or any other industries or the U.S. economy more broadly at a level commensurate with national importance. Beyond general assertions, he has not demonstrated that the work he proposes to undertake as the chief executive officer of his proposed financial management and information technology consulting business offers original innovations that contribute to advancements in his industry or otherwise has broader implications for his field. The economic and societal benefits that the Petitioner claims depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between his proposed business' financial management and information technology consulting work and the claimed economic results.

Because the documentation in the record does not sufficiently establish the national importance of the Petitioner's proposed endeavor as required by the first prong of the Dhanasar precedent decision, he has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding his eligibility under the second and third prongs. 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 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 the Petitioner has not established eligibility for a national interest waiver as a matter of discretion.

The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.