



**U.S. Citizenship
and Immigration
Services**

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

In Re: 28015885

Date: AUG. 10, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a soccer match official, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding the Petitioner had not established eligibility for 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. 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.¹

I. LAW

To establish eligibility for a national interest waiver, petitioners must 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. In addition, petitioners must show the merit of 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 that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion², grant a national interest waiver if:

¹ The Petitioner claims eligibility for the underlying immigrant classification as an individual of exceptional ability. In one part of the decision, the Director stated that “USCIS has then examined the entire record and has determined that the [Petitioner] does not have a degree of expertise significantly above that ordinarily encountered in the science, arts, or business.” The Director then indicated that “USCIS does find the [Petitioner] to be an individual of exceptional ability.” The Director’s contradictory findings do not establish whether the Petitioner qualifies as an individual of exceptional ability. Because the Petitioner did not demonstrate eligibility for a national interest waiver on appeal, we need not remand the matter to the Director in order to clarify the Petitioner’s eligibility status as an individual of exceptional ability.

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).

- 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

Regarding the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. At initial filing, the Petitioner's cover letter stated:

[The Petitioner] is seeking to promote physical activity through football, coaching through local teams, and leading them to implement new soccer techniques to better the health of U.S. citizens by reducing sedentarism and obesity. With his immense expertise related to soccer, he will ensure that any soccer academy and non-profit-organization benefit maximally from his extensive knowledge and experience participating as a Coordinator Manager in World Cups, Regional Cups, and Local Cups.

In response to the Director's request for evidence, the Petitioner indicated:

My proposed endeavor is to build upon my extensive experience in the field of sports management, to further the growth of the soccer industry in the United States. During 25 years of this long and fruitful experience I was able to achieve palpable and demonstrable successes both in South America and in the United States of America for the development and growth of soccer, in its formation bases.

....

As a professional in soccer as a Coordinator Manager and Coach, I am seeking to promote the soccer game among U.S. citizens to improve their health by reducing obesity and sedentary. I will be coaching and providing a guideline to soccer academies to achieve their goals seeking to attract more people to practice this sport in Florida.

The Director determined the Petitioner demonstrated the proposed endeavor's substantial merit but not its national importance. On appeal, the Petitioner maintains:

The Petitioner seeks to promote the sport of soccer in the United States in various ways, including by advising and creating soccer academies, giving guidance to soccer teams, participating in national competitions, and so on, much as he did in Venezuela, leading his insurmountable operational, administrative, and technical expertise to the furtherance and popularization of the sport of soccer and the growth of the U.S. soccer industry, benefitting players (primarily youths) in their physical, cognitive, psychological, social, and cultural development (ultimately resulting in economic benefits deriving directly from these sports-induced improvements).

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on “the specific endeavor that the foreign national proposes to undertake.” See *Dhanasar*, 26 I&N Dec. at 889. Although he stresses the importance and benefits of youth sports, such as combatting childhood obesity, and references his submission of related documentation, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of providing his particular soccer promotion services rather than the importance of “culture, health, and education” and associated range of topics.³ 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.

Moreover, in regard to the Petitioner’s references to his “experience” and “expertise,” they relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the specific endeavor he proposes to undertake has national importance under *Dhanasar*’s first prong.

Furthermore, 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. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner did not demonstrate how his proposed endeavor largely influences the field and rises to the level of national importance. In *Dhanasar*, we determined the petitioner’s teaching activities did not rise to the level of having national importance because they would not impact the field more broadly. *Id.* at 893. Likewise, the record does not show through supporting documentation how his proposed endeavor stands to sufficiently extend beyond his prospective athletes or academies and organizations who may utilize his services, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

Finally, the Petitioner did not show that his proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not reflect any benefits to the U.S. regional or national economy resulting from his soccer promotion services would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

For all these reasons, the record does not show that, beyond the possible limited benefits provided to his prospective athletes or entities, the Petitioner’s proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects. Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not

³ The Petitioner’s arguments and evidence relate more to the substantial merit aspect of the proposed endeavor rather than the national importance part.

demonstrated eligibility for a national interest waiver. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.⁴

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude he has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

⁴ 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 alternate issues on appeal where an applicant is otherwise ineligible).