



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

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

In Re: 26986037

Date: JUN. 26, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an entrepreneur in the trucking industry, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. *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 Nebraska Service Center denied the petition, concluding that the record did not establish that a waiver of the job offer requirement 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.

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.

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.* 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 discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

¹ *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.²

II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining 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 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

The record includes a business plan in which the Petitioner explains that he operates a trucking company. The Petitioner states that his company “currently provides transportation services as an owner-operator but will purchase trucks and employ truck drivers upon [the Petitioner’s] visa approval [and] will transport general freight for logistic companies.”

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 “the specific endeavor that the foreign national proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. 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 her work. 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 Director denied the petition, concluding that, although the proposed endeavor has substantial merit, the Petitioner did not establish the national importance of the endeavor. The Director determined that, while the Petitioner asserted that the endeavor would directly benefit the national economy, any benefits would be localized to the Petitioner’s company and clients. Because the Petitioner did not provide evidence of interested investors or otherwise explain how he would finance his business expenses or the payroll for employees in addition to himself, the Director determined that the Petitioner had not established that the proposed endeavor has the potential to succeed. The Director concluded that the evidence submitted did not demonstrate that the endeavor realistically has

² *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

significant potential to employ U.S. workers or otherwise offer substantial positive economic benefits for the United States.

On appeal, the Petitioner asserts that the Director's decision "contains numerous erroneous conclusions of both law and fact." The Petitioner, however, does not specify how the Director erred or what factors in the decision were erroneous.³ The Petitioner provides a brief that includes the following:

[The Petitioner's] endeavor will definitely have a profound impact on the national level. Given the current shift to online orders and the growing need for delivery services, the need for services offered by [the Petitioner] in this field is therefore of paramount importance and is most definitely in the national interest. [The Petitioner's] business endeavor is to enhance the overall standard of trucking and logistics services in the U.S. by providing a set of value-added services that ensure all freight is safely stored and transported in a way that preserves its quality. He operates a business that transports and delivers shipments on time and without damage, as well as manages a fleet of trucks owned or rented by [redacted] and its Truck Drivers.... [redacted] will focus on targeting logistics companies across the U.S. [The Petitioner's] endeavor will create both direct and indirect jobs across the U.S., in addition to the financial benefits the company will bring to the U.S.

Upon review, we agree with the Director's conclusion that the Petitioner has not established that his proposed endeavor to manage a trucking company in the United States rises to the level of national importance. In response to a request for evidence to clarify the Petitioner's proposed endeavor, the Petitioner provided a business plan that cites potential growth and revenue numbers in the trucking industry, and his appeal brief similarly cites growth projections and the overall importance of logistics management to the movement of freight in the United States. The Petitioner maintains that his endeavor is to manage a company that provides quality freight transportation services in a timely manner. While it is clear that the trucking industry itself has an important role in U.S. commerce, the evidence of record does not address how the Petitioner's individual company will impact the trucking industry or freight logistics models beyond its role as a small business operating amongst others in the industry. The Petitioner has not provided evidence to demonstrate the potential broader implications of his proposal, nor has he provided sufficient documentation to demonstrate that his proposal has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the United States. *See Dhanasar*, 26 I&N Dec. at 890. The Petitioner asserts that he will create both direct and indirect jobs and "enhance the overall standard of trucking and logistics services in the U.S."; however, the record does not include documentation to support these assertions. *See Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner has not established the national importance of his proposed endeavor.

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 documentation in the record does not establish national

³ An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(1)(v).

importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive, we decline to reach and hereby reserve the Petitioner's arguments with respect to the second and third prongs outlined in *Dhanasar*. 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

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We conclude that the Petitioner has not established that he is eligible for or otherwise merits a national interest waiver. The petition will remain denied.

ORDER: The appeal is dismissed.