



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

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

In Re: 22646526

Date: MAR. 28, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a supply chain management specialist, 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 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.

## 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. Next, a petitioner must then demonstrate 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 that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion<sup>1</sup>, grant a national interest waiver if the petitioner shows:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance the proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

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<sup>1</sup> 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).

## II. ANALYSIS

The Director concluded the Petitioner qualifies for second preference immigrant classification as a member of the professions holding an advanced degree. Accordingly, the remaining issue to be determined on appeal is whether the Petitioner has established a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner initially provided a statement indicating:

I will contribute to the U.S. market with my expertise and educational background in increasing the productivity and efficiency of supply chain and logistics activities. I will act in sector including transportation management, warehouse management, and distribution and in the area of supply chain including procurement, production planning, and customer service.

My skills and experience will allow me to develop a set of complimentary business activities that will contribute to the overall U.S. economy through job creation, cost reduction, product improvement, revenue growth and added value generation through a competitive supply chain.

Employment of logisticians is projected to grow 7% (CAGR) from 2016 to 2026, about as fast as the average for all occupations. Employment growth will be driven by the need for logistics in the transportation of goods in a global economy (U.S. Bureau of Labor Statistics report, 2019). Based on these official statistics and others [sic] global studies, I strongly believe my supply chain knowledge and experience will help enterprises create and manage high-performing, resilient supply chains that drive sustained, profitable growth, even in the face of sudden and dramatic market change.

I will be committed to helping U.S. companies achieve high performance through supply chain mastery, I am able to combine global industry experience and skills in supply chain strategy to help organizations transform their supply chain capabilities. I will collaborate with U.S. companies to implement innovative solutions that align operating models to support business strategies, optimize global operations, and enhance the skills and capabilities of the supply chain workforce.

In response to the Director's request for evidence (RFE), the Petitioner claimed:

The Petitioner can ensure manufacturers, specifically pharmaceutical manufacturers are better situated to onshore manufacturing operations, or in the alternative ensure the safety and efficacy of the drugs and supplies which are imported from abroad. He will do so by providing his extensive experience and education in pharmaceutical logistics and the overall manufacturing process to US pharmaceutical companies. The Petitioner will assist US drug manufacturers to move to more innovative technological solutions and more

modern manufacturing methods such as the continuous manufacturing method and pull method . . . .

The Petitioner's endeavor will be to assist US pharmaceutical companies in building and leading end-to-end innovative logistics processes, thus ensuring product quality and safety, increasing profit margins, optimizing the operational costs, and improving the services levels for clients, which will have a substantial impact on the national importance issue of onshoring US manufacturing, reducing drug cost, and providing safer drug imports and supplies from abroad.

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

[The Petitioner's] endeavor is to provide his services as a supply chain specialist across many different industries, with a focus on the pharmaceutical industry, which will optimize service levels, maintain supply-chain efficiency, and minimize costs. He will also use his knowledge and expertise to expand communication channels in national and international markets, multiplying sales as well as customer/fleet/brand/region distribution. The Petitioner will train and provide marketing insights to U.S. companies doing business abroad but also bring foreign investment to create even more businesses inside the U.S. domestic economy and particularly the logistics industry.

Moreover, the Petitioner argues that “[s]upply chain and logistics have become of national importance since they provide a foundation that enables economies to prosper and be competitive.” However, 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. Here, the Petitioner must demonstrate the national importance of *his* services as a supply chain specialist rather than the national importance of supply chain specialists, logistic services, the pharmaceutical industry, or the wide range of business fields or industries in which he intends to work. 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.

In addition, while the Petitioner stresses his “knowledge and expertise,” “knowledge and experience in the field,” and “expertise and industry knowledge,” the Petitioner's experience and abilities in his field 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 that he proposes to undertake has national importance under *Dhanasar*'s first prong.

Further, the Petitioner contends that he provided “testimonials from peers and recognized leaders in the industry about the favorable impact of the Petitioner's logistics solutions and how these solutions have extended beyond the Petitioner's immediate claims to substantially benefit the supply chain management and logistic industry, with a specific focus on the pharmaceutical sector.” 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. 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. Here, the record, including testimonial letters, does not show how his services stand to sufficiently extend beyond his potential or futuristic employers or clients, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance. Similarly, the Petitioner asserts that his endeavor is not narrowed to a single organization but “the safety and transparency of pharmaceuticals related to the public.” However, the Petitioner did not demonstrate how his services would impact consumers in general rather than the consumers of the specific organization(s) in which the Petitioner intends to work.

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

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 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.<sup>2</sup>

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that 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.

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<sup>2</sup> See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “courts and agencies are not required to make findings on issues in 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).