



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

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

In Re: 28819061

Date: NOV. 7, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an animation specialist, 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 EB-2 classification. *See* 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 and dismissed two subsequent combined motions to reopen and reconsider, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she had not established that 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.

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.” 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 U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion<sup>1</sup>, grant a national interest waiver if the petitioner demonstrates that:

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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).

- 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 Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to her proposed endeavor, the Petitioner initially indicated that she intends to provide “high quality artistic work such as 2D/3D animation, texturing and digital design for products across various industries in the United States to promote business development, job creation and economic advancement.” In response to the Director’s request for evidence (RFE), the Petitioner asserted that she has “been working as a 3D visual development - studio - artist at [redacted] University, in Florida, since 2020, establishing project goals and using techniques to create moving images that tell stories and provide information about the organization for marketing and promotional purposes.”<sup>2</sup> She further stated:

For me it has always been about connecting business and marketing with creative art.

....

As result of all my skills, and my experience as 2/3D animation specialist, I have been able to conceptualize and develop a storybook character, named [redacted]

....

[redacted] is a storybook character with the intention of also creating animated series and generating sales through merchandising and licensing. She is a 7-year-old girl who is exploring her abilities – her power of imagination, making new friends, new words, observing her environment, curiosity, creativity, and talents. She is being groomed to be multilingual. . . . This character speaks to children between the ages of 4 – 8 who are going through the same experiences she has.

....

I would like to use my art . . . to encourage others to be successful, not just for artistic purposes but driving traffic in the marketplace.

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<sup>2</sup> The record includes a January 2021 job offer letter to the Petitioner from [redacted] University for the position of “Lab Specialist.” As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for her to have a job offer from a specific employer. However, we consider information about this position to illustrate the capacity in which she intends to work in order to determine whether her proposed endeavor meets the requirements of the *Dhanasar* framework.

On motion, the Petitioner further explained that she “found animation and art [as] a way to share and tell stories, create beyond natural places and produce astonishing characters.” She further indicated: “I am able to use design and animation tools, my skills and talent to develop creative projects, including animated shorts, commercials, interactive web-based content, etc.” In addition, the Petitioner stated: “My proposed endeavor connects business and marketing through the creative arts, using my exceptional skills as a 2/3D computer animation specialist. . . . [M]y work . . . contributes to the improvement of the 3/D animation industry in the U.S.”

The record includes reports and information about computer animation in today’s business world, factors influencing global 3D animation market growth, the texturing stage of 3D model creation, and the lack of women in the 3D architecture and built environment sectors of the design industry. In addition, the Petitioner provided articles discussing the worldwide animation market, the animation industry, the outlook for the 3D animation market, and the Biden-Harris Administration’s actions to attract STEM talent and strengthen our country’s economy and competitiveness. The record therefore supports the Director’s determination that the Petitioner’s proposed endeavor has substantial merit.

Furthermore, the Petitioner provided letters of support from O-O-, B-P-, I-A-, A-L-, A-A-, and J-A- discussing her capabilities and experience as an animation specialist and creative artist. The Petitioner’s skills, knowledge, and prior work in her field, however, 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 she proposes to undertake has national importance under *Dhanasar*’s first prong.

The Petitioner also submitted an “Analysis and Advisory Evaluation” letter from V-L-, an Associate Professor of Marketing at [REDACTED] University, in support of her national interest waiver. V-L- contended that the Petitioner’s proposed work is of national importance because her generic occupation of digital animator and the industry in which works stand to contribute to our nation’s economic growth. For example, V-L- stated that “[t]he role of digital animation in advertising is difficult to overstate, as visuals are highly engaging to consumers and allow for rapid demonstration of products and concepts.” The issue here, however, is not the national 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.” *Id.* at 889. The letter from V-L- does not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner’s specific proposed work offers broader implications in her field or substantial positive economic effects for our nation that rise to the level of national importance.

In the latest decision dismissing the motion, the Director determined that the Petitioner had not established the national importance of her proposed endeavor. The Director stated that the Petitioner had not demonstrated that her undertaking stands to have broader implications in the field, significant potential to employ U.S. workers, or other substantial positive economic effects.

On appeal, the Petitioner argues that her proposed endeavor to provide “texture 2/3D animation design for various marketing and production channels” stands to “extend beyond her organization and get her involved with different clientele.” She contends that her undertaking “would greatly contribute to the U.S. economic growth and the nation’s development overall. Her invaluable contributions will have

potential prospective impact to undoubtedly strengthen the economy, research, and education of the United States, as well as advance U.S. interests via policy, programs and practice.”

The Petitioner also points to the advisory letter from V-L- who stated that the Petitioner’s work will benefit the national interest by supporting U.S. businesses in their advertising and marketing efforts. The Petitioner, however, has not shown that the impact of her services on U.S. businesses on a larger basis than just the subset of those companies taking advantage of her services rises to a level of national importance. V-L- did not explain the Petitioner’s specific proposed endeavor’s potential prospective impact by identifying its broader implications or any positive economic effects that it could be credited with.

In addition, that Petitioner asserts that the reports and articles she presented “demonstrate that the field[s] of computer animation, texturing and graphic design and marketing are crucial to U.S. economy.” 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.” 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.

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. While the Petitioner’s statements reflect her intention to provide valuable animation, texturing, and design services for her U.S. employer and its clients, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. 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, we conclude the Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her employer or its clientele to impact her field, the advertising industry, U.S. artistic enrichment, or our country’s economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to her future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner’s animation, texturing, and digital design projects would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

For the aforementioned reasons, the Petitioner’s proposed work does not meet the first prong of the *Dhanasar* framework. Because the documentation in the record does not establish the national importance of her 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

of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding her eligibility under 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

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