



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

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

In Re: 28962714

Date: NOV. 14, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an industrial engineer, 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.

## 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 discretion<sup>1</sup>, grant a national interest waiver if:

- 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.

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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

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 provided a professional plan indicating:

Considering my unique set of skills in the field, my proposed endeavor is to offer my vast experience in Industrial Engineering especially in project and people management in the beauty industry, such as hair coloring, hair care, makeup, nails, paper, baby care and women's care, to explicitly decrease any waste of time, money, materials, energy or other assets, simplifying and developing high performance industrial procedures in the production of goods ensuring greater profitability for US companies and exponential growth for the economy from the USA.

In response to the Director's request for evidence (RFE), the Petitioner submitted an updated professional plan reflecting that she "intend[ed] to perform as an Industrial Engineer and provide [her] specialized services in operational excellence methodologies focusing on simplifying and developing high-performance industrial procedures in producing goods, to impact companies and industries in the U.S." The Petitioner further provided various methodologies, specialized services, and undertakings to implement her proposed endeavor.

The Director determined the Petitioner demonstrated the proposed endeavor's substantial merit but not its national importance. On appeal, the Petitioner maintains that she "has provided a complete, specific, and clear explanation regarding [her] proposed endeavor."

At the outset, the Petitioner initially indicated that she intended to offer her industrial engineering services in the "beauty industry." However, in response to the Director's RFE, the Petitioner updated professional plan makes no mention of any intent to work within the beauty industry. In fact, the updated professional plan does not indicate which area, field, or industry the Petitioner intended to offer her services as an industrial engineer.<sup>2</sup> Instead, the updated professional plan makes general and broad claims, such as "overall business growth in the United States," "enabling business growth for American companies to thrive," and "optimization of the U.S. market."

Notwithstanding the above, 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 her specific, proposed endeavor rather than the overall importance of industrial engineers or the beauty industry or any other unspecified or related fields or industries. 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

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<sup>2</sup> In response to the Director's RFE, the Petitioner submitted "Proof of Services Procurement" evidence consisting of messages of employment offers from aerospace and wood and pulp companies, none of which appear to be within the beauty industry.

positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance.” *Id.* at 890.

The Petitioner also emphasizes her “combination of . . . academic background and wide professional experience,” “specialized services,” “operational excellence methodologies,” “unparalleled experience,” “articulated knowledge,” “qualifications and experience,” “expertise,” and “high level of skill.” However, the Petitioner’s skills, experience, and abilities 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 she proposes to undertake has national importance under *Dhanasar*’s first prong. Similarly, the Petitioner claims her submission of recommendation letters “highlight the broader implications of [her] work.” Again, the letters discuss the Petitioner’s prior work and accomplishments and relate to the second prong rather than the first prong.

Moreover, 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. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner did not demonstrate how her specific, proposed endeavor of providing her industrial engineering services for a particular company 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 his field more broadly. *Id.* at 893. Although the Petitioner makes general claims, such as “the proposed endeavor will contribute significantly to the development and implementation of efficient and effective manufacturing processes” and the “proposed endeavor . . . has the potential to broadly enhance societal welfare and culture enrichment,” the Petitioner did not show or provide evidence to support her assertions establishing how her specific employment services stand to sufficiently extend beyond her prospective employer, to impact the beauty industry or any other industries or fields or the U.S. economy more broadly at a level commensurate with national importance.

Finally, the Petitioner did not show how her employment or industrial engineering services would have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. While the Petitioner continues to make general claims regarding the “undeniable correlation between the economy and the population’s welfare,” the Petitioner did not sufficiently explain or demonstrate how her particular proposed endeavor would have any projected U.S. economic impact or job creation. Here, the Petitioner argues about the broad topic of the “expansion of manufacturing” rather than detailing how her proposed endeavor would have specific economic results. The record does not reflect any benefits to the U.S. regional or national economy resulting from her services or employment 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 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. As such, the Petitioner has not demonstrated

eligibility for a national interest waiver. Further analysis of her qualification under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.<sup>3</sup>

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she 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>3</sup> 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 applicants do not otherwise meet their burden of proof).