



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

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

In Re: 28580422

Date: OCT. 19, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a soccer program manager and coordinator, 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, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he 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 discretion¹, 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.

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 his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to his proposed endeavor, the Petitioner indicated that he intends to “work as an entrepreneur and soccer coach, providing soccer teaching to children and adolescents and soccer referee training to individuals.” He asserted that he plans to “direct the activities of [REDACTED] which will operate as a Florida-based soccer complex that will target families with children and adolescents from 3 to 17 years of age, as well as individuals aiming to become soccer referees.” The Petitioner further stated that [REDACTED] will offer soccer classes, soccer referee training, and an athletes exchange program. He also explained that his undertaking involves implementing “the successful Brazilian soccer training methodology in the U.S., contributing to raising the overall quality and results of soccer training” in our country.

The Petitioner submitted his business plan for [REDACTED]. This business plan includes industry and market analyses, information about his company and its services, financial forecasts and projections, marketing strategies, a discussion of the Petitioner’s work experience, and a description of company personnel. Regarding future staffing, the Petitioner’s business plan anticipates that his company will employ 7 personnel in year one, 8 in year two, 10 in year three, 11 in year four, and 12 in year five, but he did not elaborate on these projections or provide evidence supporting the need for these additional employees. In addition, while his plan offers revenue projections of \$508,000 in year one, \$644,000 in year two, \$867,400 in year three, \$1,023,900 in year four, and \$1,179,200 in year five, he did not adequately explain how these sales forecasts were calculated.

The record also includes information about the [REDACTED] the top ten soccer cities on Earth, and the [REDACTED] soccer league, as well as letters of support discussing the benefits associated with his sport. The record therefore supports the Director’s determination that the Petitioner’s proposed endeavor has substantial merit.

Furthermore, the Petitioner provided recommendation letters from colleagues discussing his coaching skills, sports management capabilities, and administrative experience with various soccer programs. The Petitioner’s skills, knowledge, and prior work in his 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 he proposes to undertake has national importance under *Dhanasar*’s first prong.

Additionally, the Petitioner presented “Expert Opinion Letters” from R-D-, Commissioner of the [REDACTED] and M-R-, Professor of Sports Management at the University [REDACTED] in

support of his national interest waiver. R-D- and M-R- contend that the Petitioner's proposed endeavor is of national importance because of its potential to hire U.S. workers, the health benefits associated with youth physical fitness, the popularity of soccer, and the economic benefits arising from youth sports. 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. While the advisory opinions cite to publicly available information from the U.S. Department of Health and Human Services and the White House to establish the overall importance of youth sports participation, they have not demonstrated how the administration of day-to-day operations in a soccer academy as contemplated by the Petitioner's proposed endeavor rises to a level of national importance. The letters from R-D- and M-R- do 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 his sport, U.S. public health benefits, or substantial positive economic effects for our nation that rise to the level of national importance.

In the decision denying the petition, the Director determined that the Petitioner had not established the national importance of his proposed endeavor. The Director stated that the Petitioner had not demonstrated that his undertaking "stands to impact the regional or national population at a level consistent with having national importance. Nor has he shown that his particular work would have broader implications for the soccer, coaching and sports industry." The Director also indicated that the Petitioner had not shown his "specific endeavor offers substantial positive economic effects for our nation."

On appeal, the Petitioner contends that his proposed endeavor has national importance because it stands to "influence the development of soccer techniques and skills of young players in the country," "raise the overall quality of soccer training and development," and "benefit the U.S. soccer scene." He asserts that building "relationships and connections between clubs, schools, and communities is vital for creating successful soccer programs across the U.S." The Petitioner also argues that his undertaking "has the potential to enhance the social welfare of the nation broadly" because it will help "youth athletes in the U.S. to learn and develop skills that will benefit them in life." He further maintains that his proposed work offers "cultural enrichment in the U.S." through "exposing players and fans to different cultures and ideas." In addition, the Petitioner claims that his proposed endeavor stands to "promote physical fitness and better health among the nation's youth" and therefore "impacts a matter that a government entity has described as having national importance."² He further states that his undertaking "has the potential to provide employment opportunities to U.S. workers."

Furthermore, the Petitioner notes "a significant shortage of sports officials in the U.S., including in soccer." We are not persuaded by the argument that the Petitioner's proposed endeavor has national importance due to the shortage of referees in his sport. Here, the Petitioner has not established that his proposed endeavor stands to impact or significantly reduce the claimed national shortage. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

² The Petitioner points to the Biden Administration's "Proclamation on National Physical Fitness and Sports Month, 2021," which is aimed at ensuring "equal access to sports and fitness activities for everyone."

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 his work. While the Petitioner’s statements reflect his intention to offer soccer training and instruction to his academy’s students and referee trainees, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. For example, he has not demonstrated that his involvement as an entrepreneur, academy administrator, and soccer coach stands to affect U.S. soccer or public health interests at a level consistent with having national importance. Nor has he shown that his proposed endeavor is at a level that would offer national implications in his sport, or that the implications of such work stand to impact his field more broadly. 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 his proposed endeavor stands to sufficiently extend beyond his academy and its participants to impact his sport, societal health and welfare, U.S. cultural interests, or our country’s economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not shown that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Specifically, he has not demonstrated that his company’s future staffing levels and business activity stand to provide substantial economic benefits in Florida or the United States. While the Petitioner claims that his company has growth potential, he has not presented evidence indicating that the benefits to the regional or national economy resulting from his undertaking would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. In addition, although the Petitioner has asserted that his endeavor will “provide employment opportunities to U.S. workers,” he has not offered sufficient evidence that the area where his academy will operate is economically depressed, that he would employ a significant population of workers in that area, or that his endeavor would offer the region or its population a substantial economic benefit through employment levels, business activity, or tax revenue.

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 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 of the Petitioner’s appeal, we decline to reach and hereby reserve the appellate arguments regarding his 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 he has not established he 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.