



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

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

In Re: 28945877

Date: OCT. 24, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a logistics manager, 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.

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 discretion¹, 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.

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. The Petitioner intends

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).

to operate “a distribution and logistics company providing full truckload hauling services.”² The Director indicated the Petitioner did not demonstrate the proposed endeavor’s substantial merit and national importance. On appeal, the Petitioner maintains his eligibility for both requirements under the first prong.

As it relates to substantial merit, under the national importance discussion, the Director indicated that the Petitioner did not establish substantial merit “in an area such as business, entrepreneurialism, science, technology, culture, health, education, the arts, or social science.” The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. The record shows the Petitioner’s endeavor of owning and operating a distribution and logistics company falls within the areas of business and entrepreneurialism. In addition, discussed further below, the Petitioner also provided documentary evidence of “Probative Research” relating to various topics, such as logistics and supply chain management. Accordingly, the Petitioner has shown the substantial merit of his proposed endeavor.

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. Although the Petitioner argues his submission of “Probative Research,” including a wide of topics covering logistics and distribution, transportation, and supply chain management, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of operating his business rather than the importance of logistics and distribution and related fields and 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 positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance.” *Id.* at 890.

Moreover, the Petitioner contends that he presented three expert opinion letters who found the proposed endeavor has national importance. The letters, however, makes the same arguments, discussed above, relating to the importance of supply chain markets, logistics, transportation, and other general topics rather than focusing on the national importance of the Petitioner’s company. Furthermore, the letters do not explain how the Petitioner’s services and business have broader implications for our country. 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. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner did not demonstrate how his proposed endeavor 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. Likewise, the record does not show through supporting documentation how his business stands to sufficiently extend beyond prospective clients, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.³ For instance, although the Petitioner’s statement claims the

² See business plan for [REDACTED], submitted at initial filing and an updated business plan submitted in response to the Director’s request for evidence.

³ The Petitioner’s statement claims the company currently employs 10 individuals.

company operates 10 trucks across 19 states, the Petitioner did not show how operating 10 trucks broadly impacts the field.

Further, although the Petitioner provided a business plan, the Petitioner did not demonstrate how his business' claimed revenue and employment projections, even if credible or plausible, have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. While the sales forecast \$1.1M in year 1 to \$3M in year 5, the business plan does not establish the benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Similarly, although the plan claims the business would create 13 positions in year 1 to 22 positions in year 5, the Petitioner did not demonstrate that such future staffing levels would provide substantial economic benefits to Florida or the region or U.S. economy more broadly at a level commensurate with national importance. The Petitioner, for instance, did not show that such employment figures would utilize a significant population of workers in the area or would substantially impact job creation and economic growth, either regionally or nationally. For all these reasons, the record does not establish that, beyond the limited benefits provided to its prospective clients and employees, the Petitioner's proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

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.⁴

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.⁵

ORDER: The appeal is dismissed.

⁴ 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).

⁵ Electronic records reflect that USCIS approved the Petitioner's subsequently filed second preference immigrant petition. However, based on record before us and for the reasons discussed in this decision, the Petitioner did not establish eligibility for a national interest waiver in this proceeding.