



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 33361881

Date: SEPT. 16, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a journalist, seeks classification under the employment-based, second-preference (EB-2) immigrant visa category and a waiver of the category's job-offer requirement. See Immigration and Nationality Act (the Act) section 203(b)(2)(B)(i), 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) has discretion to excuse job offers in this category – and thus related requirements for certifications from the U.S. Department of Labor (DOL) – if petitioners demonstrate that waivers of these U.S.-worker protections would be “in the national interest.” *Id.*

The Director of the Texas Service Center denied the petition. The Director concluded that although the Petitioner demonstrated his qualifications for the EB-2 category, the Petitioner did not establish that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, see *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that the record does not support a national interest waiver because the Petitioner has not established the claimed “national importance” of his proposed U.S. venture. We will therefore dismiss the appeal.

I. LAW

To establish eligibility for national interest waivers, petitioners must demonstrate their qualifications for the EB-2 category, either as members of the professions holding an “advanced degree” or noncitizens of “exceptional ability” in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. To protect the jobs of U.S. workers, this immigrant visa category usually requires prospective employers to offer noncitizens jobs and to obtain DOL certifications to permanently employ the individuals in the country. See section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D). Petitioners may avoid the job offer/labor certification requirements by demonstrating that waivers of the U.S.-worker protections would be in the national interest. Section 203(b)(2)(B)(i) of the Act.

Neither the Act nor regulations define the term “national interest.” So, to adjudicate these waiver requests, we have established a framework. If otherwise qualified as advanced degree professionals or noncitizens of exceptional ability, petitioners may warrant waivers of the job-offer/labor certification requirements by demonstrating that:

- Their proposed U.S. work has “substantial merit” and “national importance;”
- They are “well positioned” to advance their intended endeavors; and
- On balance, waivers of the job-offer/labor certification requirements would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. 884, 889-91 (AAO 2016).

II. ANALYSIS

A. The Proposed Endeavor

The Petitioner, a citizen of Brazil, states that his proposed endeavor is to provide his expertise and insights to the United States to serve as a journalist specializing in investigative research and the creation of informative articles and news pieces on critical social issues including education, housing, health, poverty, criminal justice, and race relations. His focus will be on working alongside underserved communities with a particular emphasis on Latino immigrant populations, aiming to deliver content that caters to the nuances of a multicultural and multilingual audience. His approach to journalism intends to narrate stories from the perspective of immigrants, fostering a narrative that not only speaks about them but also for them, encouraging a more diverse and inclusive representation of migration issues. In addition, he explained how he will also deploy his skills as a professor and mentor to train emerging journalists with missions on improving social equity.

The Petitioner’s professional plan states that he endeavors:

...to enter the U.S. as a journalist researching and covering social equity issues such as poverty, education, housing, health, and race relations in underserved Latin American immigrant communities. In pursuing this project, he will be serving various industries in the U.S monetizing its services. Services are mainly focused on reproducing social equity content as well as teaching and performing public speaking events. The purpose of this endeavor is to raise awareness, amplify voices of communities; facilitate community engagement and provide information and resources with a multicultural and multilingual approach to the immigrant culture to improve social and economic conditions as well as cultural biases. The plan is to start in Florida, state with one of the highest immigration population suffering from social inequities in the U.S. and then leveraging his experience into other communities in other states across the nation.

The Petitioner’s professional plan further states that the endeavor “will be monetized targeting companies licensing the intellectual rights to reproduce its social equity content as well as teaching and performing public speaking events.”

The Director determined that the Petitioner qualified as a member of the professions holding an advanced degree. The remaining issue to be determined on appeal is whether the Petitioner established

that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. Regarding the requested national interest waiver, the Director found that the Petitioner's proposed endeavor has substantial merit. See *Matter of Dhanasar*, 26 I&N Dec. at 889. However, the Director concluded that the Petitioner did not establish that his endeavor has national importance. *Id.* at 889-90. As the Petitioner correctly noted, the Director did not discuss or reach any conclusions related to whether the Petitioner is well-positioned for the endeavor or whether on balance waivers of the job-offer/labor certification requirements would benefit the United States.

B. Substantial Merit

A proposed undertaking may have substantial merit whether it “has the potential to create a significant economic impact” or relates to “research, pure science, and the furtherance of human knowledge.” *Matter of Dhanasar*, 26 I&N Dec. at 889. The record supports the Director's finding that the Petitioner's proposed endeavor has substantial merit and we agree.

C. National Importance

When determining whether a proposed endeavor has national importance, USCIS must focus on the particular venture, specifically on its “potential prospective impact.” *Matter of Dhanasar*, 26 I&N Dec. at 889. “An undertaking may have national importance, for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.” *Id.* A nationally important venture may even focus on only one geographic area of the United States. *Id.* at 889-90. “An 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.*

We agree with the Director that the Petitioner “has not demonstrated that the specific endeavor he proposes to undertake has a significant potential to impact the field of endeavor, to employ U.S. workers, or otherwise offers substantial positive economic effects for our nation. The petitioner has not shown that benefits to the regional or national economy resulting from his proposed endeavor would reach the level of ‘substantial positive economic effects’ contemplated by *Dhanasar*. *Id.* at 890.”

On appeal, the Petitioner contends that “the significance of journalism in shaping the national identity and promoting informed citizenship in the United States cannot be overstated.” (Emphasis in the original.) In his appeal, the Petitioner discusses the value of journalism in facilitating the democratic process, responding to critical issues, supporting commerce, and driving the transformation of culture. However, the Petitioner does not explain how his particular endeavor will specifically monetize the economy, employ U.S. citizens, or advance the field of journalism.

The Petitioner's professional plan does not specify where his journalistic endeavors will appear nor the circulation of those journalistic conduits. The Petitioner provided an expert opinion stating that the Petitioner intends to “write journalistic articles for publication in the many Spanish and Portuguese language periodicals in the state [of Florida].” Neither the expert opinion letter¹ provided nor the

¹ USCIS may, in its discretion, use advisory opinion statements from universities, professional organizations, or other

professional plan specify the identity, quality, reach, or circulation of these unspecified periodicals, therefore the impact of publication is speculative. The Petitioner's professional plan states vaguely that he plans to monetize his journalistic endeavor but offers no projections on what income is expected. It is not asserted that the Petitioner's particular endeavor will create jobs.

In addition to "reproducing social equity content," the professional plan states that the other main focus of the endeavor is "teaching and performing public speaking events." The Petitioner's proposed endeavor relates to a proposal discussed in *Dhanasar*. There, we found that a plan to teach U.S. university students in science, technology, engineering, and mathematics (STEM) disciplines had substantial merit. *Matter of Dhanasar*, 26 I&N Dec. at 893. But we concluded that the proposal lacked national importance because "the record does not indicate by a preponderance of the evidence that the petitioner would be engaged in activities that would impact the field of STEM education more broadly." *Id.* Here, we conclude the Petitioner has not shown that the teaching and lecture component of his proposed endeavor stands to sufficiently extend beyond his students or audience to impact his field or journalism more broadly at a level commensurate with national importance.

Like the petitioner in *Dhanasar*, the Petitioner's proposed endeavor has substantial merit. But also like that petitioner, he has not sufficiently demonstrated that his proposed endeavor would impact the economy or the field of journalism "more broadly." The Petitioner therefore has not demonstrated the claimed national importance of his proposed endeavor.

D. The Remaining Issues

Our decision regarding the national importance of the Petitioner's proposed venture resolves this appeal. Thus, we decline to reach and hereby reserve consideration regarding his positioning to advance his proposed venture and a waiver's purported benefits to the United States. See *Bagamasbad*, 429 U.S. at 25; see also *Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. The Petitioner incorrectly asserts that the Director's silence on the second and third prongs of the analysis equate to a finding that the Petitioner met his burden on these prongs. We note that the Director's conclusion that the Petitioner did not meet the first prong was dispositive, and no purpose would have been served in reaching the second and third prongs.

III. CONCLUSION

The Petitioner has not demonstrated that his proposed endeavor has national importance. Thus, under our framework, he does not qualify for a national interest waiver. Therefore, the petition will remain denied.

ORDER: The appeal is dismissed.

sources submitted in evidence as expert testimony. See *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, the submission of letters from experts supporting a petition is not presumptive evidence of eligibility. *Id.*