



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

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

In Re: 24187645

Date: MAR. 16, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a youth soccer academy, seeks classification for the Beneficiary, a soccer coach, as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Nebraska Service Center determined that the Beneficiary qualifies for the underlying classification as an advanced degree professional, that his proposed endeavor has substantial merit, and that he is well-positioned to advance that endeavor. Nevertheless, the Director denied the petition, concluding that the evidence did not establish the national importance of the proposed endeavor or that, on balance, a waiver of the job offer requirement, and thus of 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, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification (their own in the case of a self-petition; the beneficiary's in the case of a job offer), 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.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of

the Act. While neither 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 USCIS may, as a matter of discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

- 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 Beneficiary qualifies for EB-2 classification as a member of the professions holding an advanced degree, that the Beneficiary’s proposed endeavor has substantial merit, and that he is well-positioned to advance that endeavor. The issue on appeal is whether the Petitioner has established the national importance of the specific proposed endeavor and that, on balance, waiving the job offer requirement and thus labor certification would benefit the United States.

The Beneficiary is a youth soccer coach. The Petitioner is a soccer development academy. The Petitioner states it has more than 65 teams with over 1,000 players and that its teams participate in the top youth leagues in the United States, including the Elite Clubs National League, the U.S. Soccer Federation Development Academy, and the Major League Soccer (MLS) development academy.²

With respect to the proposed endeavor, the Petitioner stated on the Form I-140 that the Beneficiary will be employed as a “soccer coach” and his duties will include coaching and training athletes on soccer techniques; teaching athletes the rules, strategies, and techniques of soccer; developing training curriculums; providing feedback and counseling athletes; recruiting team members; planning practice schedules; and coordinating travel arrangements for tournaments. The Beneficiary’s personal statement and the Petitioner’s job offer letter provide additional details about the duties of the proposed endeavor, stating that in addition to coaching three teams, the Beneficiary will be selecting and training coaching and recruitment staff for one of the club’s programs and working with one of the club’s directors to create and implement a soccer curriculum and coach workshops.

In his personal statement, the Beneficiary states that the goal of his endeavor is to “produce, train, and equip enough players who will be ready to compete at the international level by representing the U.S. National team as well as reaching the professional ranks, playing for clubs in the MLS or internationally. . .” and further “to produce enough talent so the U.S. is fully equipped to compete in the World Cup and other international tournaments. . . .” The Beneficiary’s personal statement also includes a description of the training methodology that the Beneficiary employs as a soccer coach. Finally, the personal statement provides a list of the Beneficiary’s former athletes who have played or

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).

² The U.S. Soccer Development Academy appears to have ended operations as of April 15, 2020, a few months prior to the date of the initial I-140 filing. See <http://www.ussoccer.com/stories/2020/04/a-letter-to-development-academy-clubs>. Parts of the record refer to the U.S. Soccer Development Academy as an active organization. However, there is also reference in the record to the MLS’s development academy, which is described as the U.S. Soccer Development Academy’s functional successor.

are playing professional soccer and those who received athletic scholarships in recent seasons to play for colleges and universities.

In finding that the evidence did not establish the national importance of the proposed endeavor, the Director found that “the work of a single soccer coach is too attenuated to more broadly affect the field.” The Director acknowledged that “several of the authors of the [Beneficiary’s] recommendation letters appear to be experts in the [B]eneficiary’s field,” but that their opinions, while not without weight, did not persuasively establish that the Beneficiary’s endeavor is of national importance.

On appeal, the Petitioner contends that the Director applied the wrong standard of proof and the evidence, if considered under a preponderance standard, does establish the national importance of the Beneficiary’s endeavor. Specifically, the Petitioner claims the evidence establishes that the Beneficiary is “affecting the field more broadly as he is directly providing soccer players to Major League Soccer teams” and as a result is “having a direct impact on the field of Soccer.” The Petitioner also claims that the Director did not properly consider industry experts on the question of national importance.

The record contains several letters of recommendation, including letters from representatives of two MLS teams - the [redacted] - expressing their opinion as to the impact of the Beneficiary’s work. They each note his impressive skill in youth player development and their history of recruiting his players to their own academy and youth development teams. The Director of Academy Administration for the [redacted] writes that in the prior season the club selected five of his youth players to join its youth development program, in addition to another player who has already joined its U13 (under 13) team. The Academy Head Scout with [redacted] [redacted] similarly states that the Beneficiary “understands player development and contributes to professional teams like [redacted] by providing qualified players to our developmental academies...We appreciate the expertise and youth talent he provides to our club.”

Another recommendation letter is from a member of the National Soccer Hall of Fame who has coached U.S. Olympic Teams and the U.S. Men’s National Team, among other accomplishments. He states his belief that the Beneficiary’s work “is impacting not only youth development at [the Petitioner], but also having a direct impact in the player development of U.S. Soccer.” He notes that “[i]n the past three seasons, over 15 players coached by [the Beneficiary] have gone on to play at the collegiate level,” and that this accomplishment is “a true testament to his developmental process and the benefits he brings to U.S. Soccer.”

Another letter writer, a former professional Brazilian soccer player and current member of the staff of the Brazilian Men’s National Team writes that the Beneficiary “is excellent at developing players who are equipped to play at the next level...as soccer becomes more popular, teams will search for better players and [the Beneficiary] is becoming a reference in the Northeast of the U.S.”

These recommendation letters help establish that the Beneficiary is a well-respected youth soccer coach who has had success in identifying and developing players who are then recruited to play on MLS academy teams or at the collegiate level. However, this does not by itself establish that his coaching activities will have national or global implications within the field of soccer. *Matter of Dhanasar*, 26 I&N Dec. at 889. Although the Petitioner’s appeal brief claims that the Beneficiary is

“affecting the field more broadly as he is directly providing soccer players to Major League Soccer teams,” his record of success in player development is not self-evident of the national importance of his endeavor. As an initial matter, to the extent that the letters discuss the Beneficiary’s coaching skills, soccer expertise, and record of success, this evidence generally relates to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the [noncitizen]” and whether he is well-positioned to advance it. *Matter of Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the Beneficiary’s specific endeavor - to coach youth soccer with the Petitioner - has national importance under *Dhanasar*’s first prong.

To evaluate whether the Beneficiary’s proposed endeavor satisfies the national importance requirement we look to the evidence documenting the “potential prospective impact” of his work. *Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we gave as examples of nationally important endeavors those that might result in improved manufacturing processes or medical advances. *Id.* The recommendation letters do not establish that the Beneficiary’s coaching activities have the potential to result in the type of broad impact that an improved manufacturing process or a medical advancement would in their respective fields.

For example, the recommendation letters are not sufficient to establish that the prospective number of players that the Beneficiary may reach through his endeavor is such that it would have a “broad impact” on the field of soccer. Although some of the letters provide a specific number of athletes who have been recruited to MLS or collegiate teams, these numbers are not in context with the overall number of athletes coached by the Beneficiary, athletes in the MLS academy system, or athletes playing at the collegiate level. Presumably, college and MLS teams use many sources to recruit youth players, and the letters do not establish that the Beneficiary’s athletes are a primary or even a significant source of talent, rather than one of many sources they look to in recruitment. The letters of recommendation also do not describe the Beneficiary as having a particular coaching or player development methodology that is replicable and that he intends to disseminate through the industry on a scale that would be commensurate with national importance.³ Further to that point, the Petitioner did not provide letters from the U.S. Soccer Federation or the MLS organization overall expressing interest in the Beneficiary’s endeavor or seeking to coordinate with the Beneficiary in a way that would result his coaching and player development methods reaching a broader audience that would be commensurate with national importance.

We acknowledge the authors of the recommendation letters are experts either in soccer or in the development of youth soccer players, and we have carefully considered each one. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int’l, Inc.*, 19 I&N Dec. 791, 795 (Comm’r 1988). However, we are ultimately responsible for making the final determination regarding an individual’s eligibility for the benefit sought; the submission of expert letters is not presumptive of eligibility. *Id.* Although the recommendation letters carry persuasive weight, for the reasons stated above, we conclude that they do not establish that the proposed endeavor has national importance.

³ We acknowledge that the Beneficiary’s personal statement and the Petitioner’s job offer letter state that his endeavor will include recruiting other coaches and leading coaching workshops. However, this information reflects that these efforts will reach only the coaches within the Petitioner’s own organization, rather than having the potential to reach coaches at a level that would result in a broad impact in the field.

The Petitioner also highlights on appeal the letters from the Beneficiary's athletes who have gone on to play professionally or at the collegiate level and the letters from the parents of the Beneficiary's athletes who are now playing for MLS academy teams. While these letters speak to the direct impact of the Beneficiary on those individuals whom he has coached, they do not sufficiently establish the potential for his endeavor to have a broad impact on the field of soccer.

Finally, the Petitioner also reiterates on appeal the articles, reports, and publications in the record regarding the need for U.S. soccer development, the economic benefits of successful teams, the economic demand for coaches, and the national importance of soccer's impact on societal health and cultural enrichment. This evidence is persuasive of the economic, societal, and cultural benefits of U.S. soccer development. Particularly, this evidence is persuasive of the specific issue of youth player development, and that one of the problems facing U.S. soccer is that of identifying and supporting a talented pool of youth players who can advance to play professionally. However, this evidence speaks to the soccer industry overall and to the substantial merit of the 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 [noncitizen] proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889.

We acknowledge that the Beneficiary's goal as he characterizes it - to produce enough talent to fully equip the United States to compete in the World Cup - would have a broad impact on the field of soccer, if successful. But we must consider the scope of the specific endeavor that the Beneficiary proposes, as established by the record. *See id.* Here, the evidence in the record establishes that the Beneficiary will coach youth soccer and train other coaches at an academy. Even if he continues to be successful in identifying and developing talented youth players, and even if he trains coaches within the Petitioner's organization, this is primarily an impact on those individual players and coaches. Particularly without further context of the scale of the Beneficiary's own player development activities, or a plan to spread his player development methodology through the industry, the Petitioner has not established by a preponderance of the evidence that this specific endeavor rises to the level of national importance.

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, the Beneficiary is not eligible for a national interest waiver. We acknowledge the Petitioner's arguments on appeal as to the third prong of *Dhanasar* but, having found that the evidence does not establish the Beneficiary's eligibility under the first prong, we will not address those arguments here. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong. *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").

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established that the Beneficiary is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.