



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

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

In Re: 31072834

Date: May 14, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a family relationship coach, 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 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 while the record did establish that the Petitioner's specific endeavor had substantial merit and that she is well-positioned to advance the endeavor, she did not demonstrate national importance or that it would be beneficial to waive the job offer requirement. 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

An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree.

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 discretion,<sup>1</sup> grant a national interest waiver if the petitioner demonstrates that:

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<sup>1</sup> *See also Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and

- 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. ADVANCED DEGREE

The Petitioner asserts that she qualifies for an advanced degree professional classification by virtue of foreign education that she claims is equivalent to two U.S. bachelor's degrees and two U.S. master's degrees, in accordance with 8 C.F.R. § 204.5(k)(3)(i). The Director determined that the Petitioner was a member of the professions holding an advanced degree. After reviewing the record, we disagree with the Director's determination.

As noted above, a petition for an advanced degree professional must include evidence that a petitioner possesses a "United States academic or professional degree or a foreign equivalent degree above that of baccalaureate." 8 C.F.R. § 204.5(k)(2). In order to show that a petitioner holds a qualifying advanced degree, the petition must be accompanied by "[a]n official academic record showing that the [individual] has a United States advanced degree or a foreign equivalent degree." 8 C.F.R. § 204.5(k)(3)(i)(A).

The Petitioner claims that she has two specialist diplomas in applied mathematics and clinical psychology. She asserts that each respective degree is the equivalent of a combined U.S. bachelor's and master's degree. However, as the Petitioner did not comply with the evidentiary requirements regarding original documents and translations, it is not possible to meaningfully determine whether the evidence submitted to prove this is accurate and establishes that the Petitioner's degrees meet the requirements.

To demonstrate that she has the claimed degrees, the Petitioner submitted a copy of her original diploma in clinical psychology, the accompanying addendum for the clinical psychology diploma, and a copy of her original diploma in applied mathematics. She also provided translations for all the aforementioned documents. The translations in the initial submission were not certified. In response to the Director's request for evidence (RFE) the Petitioner provided new translations of all the above documents.

In response to the RFE, the Petitioner also presented a translation of a transcript for her applied mathematics degree. Nevertheless, she did not tender any copies of the original transcript for the degree in Russian with this or her initial submission. As the Petitioner did not provide a copy of the original transcript, it is not possible to meaningfully determine whether the translation is accurate and supports the Petitioner's claims.

Moreover, although the translations submitted in response to the RFE contain a "certificate of translation," it does not meet USCIS requirements. The certificate of translation states "that the present translation of the Russian language document has been translated by Scholaro, Inc. and that it

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Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

represents, according to the best of my knowledge and belief, a true and accurate rendering of the original document into English.” The certificate is signed by [redacted] Project Coordinator. It does not indicate that Ms. [redacted] translated the documents.

Any document in a foreign language must be accompanied by a full English language translation, and a certification from the translator that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). The certification from Scholaro does not comply with this as it does not indicate that it was completed by the documents’ translator, who is competent in English and Russian. As none of the evidence regarding her degrees has been translated in accordance with the plain language requirements of 8 C.F.R. § 103.2(b)(3), none of documents have any evidentiary weight and will not be considered.

In light of the above, we disagree with the Director’s conclusion that the Petitioner has established that she is an advanced degree professional in accordance with 8 C.F.R. § 204.5(k)(3)(i). Nonetheless, because the Petitioner was not on notice of these issues, this does not form the basis of our dismissal. The Petitioner must address and resolve this in any further filings.<sup>2</sup>

### III. NATIONAL INTEREST WAIVER

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 agree with the Director that the Petitioner has not sufficiently demonstrated national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

#### A. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

Regarding her claim of eligibility under *Dhanasar*’s first prong, the Petitioner’s business plan states that she intends to establish [redacted] “to foster the emotional well-being and overall health of families and communities through [their] specialized family coaching services,” focusing on the DIRFloortime approach.

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<sup>2</sup> The Petitioner also claims eligibility for the EB-2 classification as an individual of exceptional ability. However, the Director did not evaluate the Petitioner’s evidence to determine whether she satisfies at least three of six categories of evidence listed under 8 C.F.R. § 204.5(k)(3)(ii), nor did the Director conduct a final merits determination to decide whether the evidence in its totality shows that the Petitioner is recognized as having a degree of expertise significantly above that ordinarily encountered in the field. We decline to make an analysis and determination on this claim in the first instance on appeal. However, should the Petitioner overcome other deficiencies noted herein in any further filings, the matter would be remanded to the Director for further consideration and analysis of the Petitioner’s eligibility for classification as an individual of exceptional ability.

The Director determined that the Petitioner's proposed endeavor was of substantial merit. Upon a de novo review of the record, we agree. Nevertheless, the evidence provided does not demonstrate that the endeavor is of national importance.

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 "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.

The Petitioner argues on appeal that her proposed work is nationally important because she will coach families and other professionals on the DIRFloortime method, which will "enhance the welfare of society as a whole" and is "aligned with federal priorities."<sup>3</sup>

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. 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. 26 I&N Dec. at 893.

The Petitioner contends on appeal that coaching parents and training other providers in her field is nationally important, yet the brief and the record does not explain how this would impact the overall field more broadly on the level of national importance. After generally contending that the endeavor is nationally important, the appeal brief focuses on the Petitioner's past achievements in Russia, the general need for more DIRFloortime providers in her planned location, and how the endeavor aligns with federal priorities on children's mental health treatment. None of these arguments focus on the Petitioner's specific endeavor and addresses how an individual business involved in coaching clients and providing training to other providers will affect the overall field at a nationally important level.

The record does not sufficiently demonstrate national importance either.<sup>4</sup> It contains articles indicating the importance of the Petitioner's field, but these reports do not specifically address her proposed endeavor. She also provided information explaining the DIRFloortime method and letters from clients and colleagues, in which the authors attest to the Petitioner's acumen and capability. However, the record does not contain evidence demonstrating how individual interactions with clients and trainees will impact the field more broadly in a way that implicates national importance.<sup>5</sup>

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<sup>3</sup> We note that the appeal brief alleges that the Petitioner's coaching business "is only the first step in a larger non-profit social project similar to what [the Petitioner] achieved in Russia." While the record has evidence, such as the business plan and the Petitioner's statement, discussing her coaching business, the documentation submitted does not address any "non-profit social project." A petitioner must resolve discrepancies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

<sup>4</sup> While we may not discuss every document submitted, we have reviewed and considered each one.

<sup>5</sup> We observe that most of the evidence in the initial filing is copies of original documents in the Russian language, some without translations and others without certificates of translation. Many of these documents were resubmitted in response to the RFE with proper translations and certificates of translation. As we noted in the prior section, foreign language

Furthermore, she has not demonstrated that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. An endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, may have national importance. *Dhanasar*, 26 I&N Dec. at 890. Here, however, the Petitioner has not established that her business will have a nationally important impact.

The Petitioner's business plan anticipates that the Petitioner's company will reach a total of 10 employees in year five, and employee and contractor expenses will increase from \$3,000.00 in year one to \$710,000 in year five. She also projected grossing around \$3 million in revenue over the company's first five years. The record though lacks evidence demonstrating that the projections claimed in the business plan will result in substantial economic growth on the level of national importance. It does not illustrate how creating 10 jobs and generating around \$3 million in revenue over five years, as projected in the business plan, would have substantial positive economic effects on the level of national importance. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner has therefore not provided sufficient information and evidence to demonstrate the prospective impact of her proposed endeavor rises to the level of national importance. Accordingly, the record does not sufficiently demonstrate that the Petitioner's proposed endeavor is of national importance.

In the same way that *Dhanasar* finds that a classroom teacher's proposed endeavor is not nationally important because it will not impact the field more broadly, we find that the record does not establish that the Petitioner's proposed endeavor will sufficiently extend beyond her clients and trainees to affect the region or nation more broadly. 26 I&N Dec. at 893. She has not shown that benefits to the regional or national economy resulting from the Petitioner's undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

Accordingly, we find that the record does not demonstrate national importance of the Petitioner's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision and the Petitioner has not demonstrated eligibility for a national interest waiver. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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).

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documents must be accompanied by a full English language translation, and a certification from the translator that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). We can accord no weight to the documents that did not comply with these requirements.

### III. CONCLUSION

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

**ORDER:** The appeal is dismissed.