U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33376457

Date: AUG. 21, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a physician, seeks second preference immigrant classification (EB-2) 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 immigrant 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 the EB-2 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. 8 C.F.R. § 103.3. The matter is now before us on appeal pursuant to 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, 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, 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. Our precedent, *Matter of Dhanasar*, 26 I&N Dec. 884 (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,[1] grant a national interest waiver if the petitioner demonstrates that:

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts to conclude the national interest waiver is discretionary in nature).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well positioned to advance the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

Id. at 889.

II. ANALYSIS

The Director concluded that the Petitioner established the substantial merit but not the national importance of his proposed endeavor under the first prong of *Dhanasar*.[2] The Petitioner's endeavor is to work as a physician specializing in "fetal medicine, general ultrasound, endometriosis diagnosis, and medical education to impact the field of health care in the U.S."

The Petitioner qualifies for the EB-2 classification as a member of the professions holding an advanced degree as he obtained a title of physician (*titulo de médico*) from [redacted] in Brazil. 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 the national importance of his endeavor.

On appeal, the Petitioner does not offer any new evidence. Instead, the Petitioner claims that the Director misconstrued or misunderstood the evidence in the record and that the previously submitted or referenced industry articles, resources, and government initiatives demonstrate his endeavor's national importance.

However, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. Instead, we focus on the "the specific endeavor that the foreign national proposes to undertake" and consider the endeavor's "potential prospective impact." *Id.* The Petitioner contends that his endeavor has "global impact" because of the pressing need to treat endometriosis, as discussed in the web resources from http://www.womenshealth.gov. While the women's health resource articles demonstrate the substantial merit of the Petitioner's endeavor and the importance of the field in which he intends to work in, they do not adequately demonstrate the endeavor's national importance.

Moreover, the Petitioner has not provided corroborating evidence to show that his solutions or methodologies somehow differ from or improve upon those already available and in use in the United States, as contemplated by *Dhanasar*: "[a]n 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.* Although the Petitioner asserts that his techniques and procedures in the field of fetal medicine or obstetrics/gynecology (OB-GYN) has a potential for "groundbreaking advancements with the

[2] The Director also concluded that the Petitioner met the second prong of being well-positioned to advance his endeavor but did not establish that, on balance, waiving the job offer requirement would benefit the United States under the third prong of *Dhanasar*.

potential to revolutionize healthcare practices globally," he has not supported his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For instance, the reference letters in the record do not address the endeavor's specific impact or special methodologies attributable to the Petitioner. Instead, they generally praised his skills as a physician and referred to his past work experiences. The expert opinion letter from an assistant professor of medicine generally discusses the importance of the medical profession in the coronavirus pandemic era and the growing need to protect women's medical health, especially in the area of OB-GYN and fetal medicine, without addressing specific impact of the Petitioner's proposed endeavor or his methodology. Although the opinion letter claims that the endeavor will "promote the health and well-being of women and their babies" and the Petitioner will "[share] solutions that will benefit the United states' health system which will improve the well-being of citizens and American society," it does not offer any persuasive detail concerning the Petitioner's "solutions" or the endeavor's impact extending beyond a particular employer or patients that he will serve as a physician.

In *Dhanasar*, we further noted 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." *Dhanasar*, 26 I&N Dec. at 890. The Petitioner contends that the American Medical Association (AMA) Economic Impact Study corroborates that his endeavor "supports millions of jobs and contributes significantly to the U.S. economy." We acknowledge that the AMA study addresses how physicians contribute to generating economic activities, but it only provides a general overview on the importance of the medical profession and does not address the Petitioner's specific procedures or methodologies that would directly lead to "substantial positive economic effects." Any offer of goods or services has the potential to impact the economy; however, the record does not support the Petitioner's work as a physician or dissemination of his knowledge or skills[3] would be on such a large scale that would benefit the U.S. economy rising to the level of national importance.

Finally, the Petitioner claims that his endeavor directly supports the initiatives from the U.S. Department of Health and Human Services (HHS) in "enhancing healthcare quality, advancing scientific discovery, and strengthening global health efforts." But aside from this generalized claim, the Petitioner has not provided any specific information that the government has implemented or is interested in gaining his methodologies or solutions. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

Based on the foregoing, we conclude that the Petitioner has not demonstrated national importance of the proposed endeavor and does not meet the first prong of *Dhanasar*. Therefore, we decline to reach and hereby reserve the Petitioner's arguments regarding his eligibility under the second and third prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach");

[3] In addition to working as a physician, the Petitioner indicated that he will be collaborating with small and large clinics and teach the next generation of physicians his knowledge and skills.

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, he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.