U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34836755

Date: FEB. 10, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a dental surgeon, seeks classification 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, 8 U.S.C. § 1153(b)(2)(B)(i). 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 Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she 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 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)(A) 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. *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,[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 Ninth, Eleventh, and D.C. Circuit Courts (and Third

- 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.

II. ANALYSIS

The Director determined that the Petitioner qualifies for underlying EB-2 classification as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that 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 conclude that the Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

The Petitioner indicated that she intends to open [redacted] a state-of-the-art dental practice specializing in oral diagnostics, restorative treatments, prosthetics, and cosmetic dentistry, in [redacted] Florida.

The Director reviewed the totality of the evidence in the record, including the Petitioner's statements, business plan, expert opinion letter, education and credential information, and industry reports and articles. The Director determined that the Petitioner did not establish the proposed endeavor's substantial merit or its national importance. In determining that the Petitioner did not establish the national importance of her proposed endeavor, the Director concluded that the Petitioner had not demonstrated that the specific endeavor she proposes to undertake stands to sufficiently extend beyond its customers to impact her field more broadly at a level commensurate with national importance, has a significant potential to employ U.S. workers, or that it otherwise offers substantial positive economic effects for our nation. *Id.* at 889-90. The Director also noted that the Petitioner has not offered sufficient evidence that the areas of [redacted] Florida are economically depressed, that she would employ a significant workforce in that area, or that her project would offer the city or its population a substantial economic benefit through either its employment level or virtual product services. The Director further noted that the record does not adequately show that benefits to the U.S. regional or national economy resulting from the Petitioner's project would reach the level of "substantial positive economic effects" contemplated by *Dhanasar* and without sufficient documentary evidence of its broader impact, her proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework. *Id.* at 890.

A. Substantial Merit

First, although the Petitioner contends on appeal that the Director found the proposed endeavor has substantial merit, this is incorrect. In denying the petition, the Director specifically stated that the

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

documentary evidence submitted does not support the petitioner's statements that the proposed endeavor has substantial merit. However, we disagree.

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. *Matter of Dhanasar,* 26 I&N Dec. at 889. Here, the Petitioner's proposed endeavor is in oral health, including preventive care, dental surgery, and orthodontics. Therefore, we withdraw the Director's determination that the Petitioner's proposed endeavor does not have substantial merit.

B. National Importance

Upon de novo review, we agree with the Director's finding that the Petitioner's proposed endeavor does not satisfy the national importance element under *Matter of Dhanasar*'s first prong. If the Petitioner does not meet the first prong, she is ineligible for the national interest waiver.

In evaluating 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" and its prospective impact. *Id.* 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.*

In her statements, the Petitioner emphasized that her clinic "will cater to an extensive array of dental needs, from routine check-ups and cleanings to intricate services such as orthodontic alignment and cosmetic dentistry," as well as education in oral hygiene. Before the Director and again on appeal, the Petitioner also provided published articles from professional, industry, and government publications in support of her claim that she can satisfy the first prong of the *Dhanasar* analytical framework. The articles address the lack of affordable dental care in the United States, nationwide and regional labor shortages in the dental health profession, inequalities in the availability of dental care across different demographic populations, and serious health outcomes that can be linked to a lack of adequate dental care.

While the Petitioner's statements reflect her intention to provide dental services to her clients as part of her proposed endeavor, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. Her statements do not show how her proposed endeavor stands to sufficiently extend beyond her own proposed practice and its patients to impact the dental/oral health field more broadly at a level commensurate with national importance. *Id.* at 889.

We also acknowledge that the articles submitted provide support for the Petitioner's claim that her proposed work has substantial merit, as they reflect that oral health is important to the overall health of the population and that the United States has many underserved communities that lack access to adequate dental care. The articles also generally focus on the importance of the oral health/dental field overall. However, as stated, in assessing national importance, the relevant question is not the importance of the industry or profession in which the petitioner will work; instead, the focus is on the prospective impact

of the specific endeavor, including if it will have broader impact within the field in which the individual proposes to undertake the endeavor. *Id.* Here, the record does not establish that the work of one dentist or dental surgeon or clinic would have broader implications to have a nationally significant impact in this field.

The articles the Petitioner submitted also include statistics intended to show that there is a shortage of dentists in the United States. Similarly, an expert opinion letter from the Dean of the [redacted] New York indicates that there are shortages of dental health care professionals which the Petitioner's clinic will address. However, a shortage of qualified professionals does not render the work of an individual dentist nationally important under the *Dhanasar* precedent decision. In fact, the U.S. Department of Labor addresses shortages of qualified workers through the labor certification process and Schedule A regulations. Congress did not provide a blanket exemption for dentists with respect to the job offer and labor certification requirement.

The Petitioner further claims that her proposed endeavor will impact both the U.S. economy and that her clinic will have substantial positive economic effects. We stated in *Dhanasar* 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 will be understood to have national importance." *Id.* at 890.

The job creation and revenue projections included in the Petitioner's business plan are not supported by details showing their basis or an explanation of how those projections will be realized and therefore do not sufficiently corroborate the national importance of her endeavor. Even if the Petitioner had established a sufficient basis for these projections, they still do not establish the national importance of the proposed endeavor. While the projected income statement indicates that the Petitioner's dental business has growth potential, it does not demonstrate that the benefits to the regional or national economy resulting from her undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar* to establish its national importance. *Id.* at 890. In addition, the Petitioner has not offered sufficient evidence identifying that the area where her clinic will operate is economically depressed. Similarly, she has not adequately established that the projected direct and indirect job projections, even if corroborated by other probative evidence, are such that they show that her endeavor's potential to employ U.S. workers is significant. *Id.*

Further, we acknowledge that the expert opinion letter from the Dean of the [redacted] who in addressing the national importance aspect of the Petitioner's proposed endeavor, provided that the Petitioner's business will offer affordable prices and actively engage with the local community through outreach programs and partnerships to promote oral health awareness and improve the overall well-being of [redacted] residents. She then reviewed the Petitioner's business plan and indicated that the Petitioner's proposed endeavor will "make a positive impact on the nation's economy by fostering job opportunities and generating tax revenues." The Dean further indicated that the proposed endeavor would contribute to public health and well-being on both local and national levels through the provision of affordable comprehensive dental services, a focus on preventive care, and an emphasis on patient education. The Dean concluded that the proposed endeavor "intersects with matters of national importance related to healthcare accessibility, preventive medicine, and public health initiatives [and] through its commitment to affordability, preventive care, and community engagement, it [will]

contribute to broader national efforts to improve healthcare access, promote public health, and empower individuals to lead healthier lives."

The input of any professionals in the relevant field or industry is respected and valuable in assessing a claim of a national interest waiver. However, the general assertions in the expert opinion letter that the services the Petitioner proposes to provide as part of her endeavor will contribute to overall public health and have national and local impact on the field and the economy do not sufficiently demonstrate the national importance of the proposed endeavor, as contemplated by *Dhanasar*. *Id.* at 890. For example, the Dean does not explain how the Petitioner's proposed endeavor, through the work of her dental clinic, will extend beyond her own practice and its patients to impact the dental/oral health field more broadly at a level commensurate with national importance. Additionally, apart from general, unsupported assertions, the Dean's letter does not otherwise demonstrate that the Petitioner's dental services through her clinic would employ a significant population of U.S. workers, or that her endeavor would offer a particular U.S. region or its population a substantial economic benefit through employment levels or business activity.

Finally, the Petitioner has emphasized her long career as a dental surgeon in Brazil, and her expected leadership role in her own future practice; however, these factors do not sufficiently establish the national importance of the proposed endeavor. Although the Petitioner's professional qualifications and prior employment are important and are documented in the record, the Petitioner's expertise acquired through her education, training, and employment relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national" and whether they are well positioned to advance the endeavor. *Id.* The issue here is whether the specific endeavor itself that the Petitioner proposes to undertake has national importance under *Dhanasar's* first prong.

The Petitioner's claims on appeal do not overcome the basis for the Director's findings as they relate to the national importance of the proposed endeavor. For the reasons discussed, the Petitioner has not demonstrated that her proposed endeavor would be of national importance, and she therefore does not meet the requirements of the first prong of the *Dhanasar* analytical framework and has not established eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding her eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude 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.