U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37315338

Date: MAR. 17, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a medical scientist, 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. The Director determined the record does not establish that the Petitioner qualifies as a member of the professions holding an advanced degree. The Director also concluded that the record did not establish that a waiver of the job offer requirement, and thus of a 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 qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate 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 Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a 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 job offer requirement would benefit the United States.

Id.

II. ANALYSIS

As noted above, the Director determined the record does not establish that the Petitioner qualifies for second preference immigrant classification as a member of the professions holding an advanced degree. *See* section 203(b)(2) of the Act. The Director further concluded that the record does not satisfy any of the three *Dhanasar* prongs. *See Matter of Dhanasar*, 26 I&N Dec. 889-90. For the reasons discussed below, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong, which is dispositive. *See id.* Therefore, we reserve our opinion regarding whether the Petitioner qualifies for second preference immigrant classification. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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).

The Petitioner described the endeavor as a plan "to work in the field of biomedical science in the United States to improve cancer prevention and treatment." She elaborated, in generalized terms, that she will "focus [her] research efforts on creating new predictive biomarkers, therapeutic targets, and medications for cancer precision therapies by identifying and characterizing genes, proteins, and signaling pathways that play essential roles in cancer initiation, progression, and drug resistance." She also summarized prior research she has conducted. The Petitioner submitted publications providing generalized information regarding cancer, and letters of recommendation. However, the Petitioner did not elaborate on any particular employer or location where she would conduct her research, nor did she describe how the specific endeavor she proposes to undertake may have national or even global implications within the field of medical research or any other field, and she did not assert that the proposed endeavor would employ anyone other than herself.

The Director acknowledged that the record contains the Petitioner's personal statements, publications providing generalized information regarding cancer, and letters of recommendation. However, the Director noted that the record does not establish how the proposed endeavor "will impact the field more broadly, as contemplated by *Dhanasar*," such as through "techniques, methodologies, or methods [that] are sufficiently innovative or distinct" from others in the field. The Director also noted that the publications provide generalized information regarding cancer, but the record does not contain documentary evidence to support the opinions in the letters of recommendation regarding the Petitioner's renown in her field, thus affording those opinions less weight, citing *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791 (Comm'r 1988). In addition to determining that the record does not establish that the proposed endeavor may have national or even global implications within a particular field or industry, the Director also noted that the record does not establish whether the proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects, citing *Matter of Dhanasar*, 26 I&N Dec. 890. Based on those issues, the Director concluded that the record does not establish the proposed endeavor has national importance and, thus, it does not satisfy

the first *Dhanasar* prong. *See id.* The Director further determined that the record does not satisfy the second and third *Dhanasar* prongs. *See id.*

On appeal, the Petitioner reasserts that her personal statements, publications providing generalized information regarding cancer, and letters of recommendation demonstrate the proposed endeavor has national importance. She also references a list of critical and emerging technologies (CETs), which she asserts establishes that biotechnology is "an area that is formally recognized as a top priority for the United States." She further notes documentation in the record regarding funding she has received for her research, which she characterizes as "clear evidence of the immense value her work has for public health in the United States."

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on "the specific endeavor that the [individual] proposes to undertake" and "we consider its potential prospective impact," looking for "broader implications." *Matter of Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or those with "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Matter of Dhanasar, 26 I&N Dec.* at 889-90.

We first note that the publications in the record, referenced by the Petitioner on appeal, provide generalized information regarding cancer. Those publications, with titles including "Worldwide Cancer Data," "The Global Cancer Burden," "Biomarker Testing for Cancer Treatment," "Cancer Data and Statistics," "Annual Report to the Nation on the Status of Cancer Part 2," and "Targeted Therapy for Cancer," do not discuss the Petitioner, her proposed endeavor, and how the specific endeavor she proposes to undertake may have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong. For example, the publications do not discuss how the specific endeavor the Petitioner proposes to undertake may have national or even global implications within the field of medical research or any other field, such as those resulting from certain improved manufacturing processes or medical advances. *See id.* As another example, the publications do not address whether the specific endeavor the Petitioner proposes to undertake may have significant potential to employ U.S. workers or have other substantial positive economic effects. *See id.* Because the publications providing generalized information regarding cancer do not address the Petitioner and the broader implications of the specific endeavor she proposes to undertake, they do not establish how the proposed endeavor may have national importance, as contemplated by the first *Dhanasar* prong. *See id.*

Similarly, although the various letters of recommendation discuss the Petitioner's prior research, they do not address how the specific endeavor the Petitioner proposes to undertake prospectively may have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong. For example, like the publications noted above, the letters of recommendation do not discuss how the specific endeavor the Petitioner proposes to undertake may have national or even global implications within the field of medical research or any other field, such as those resulting from certain improved manufacturing processes or medical advances, have significant potential to employ U.S. workers, or have other substantial positive economic effects. *See id.* Therefore, the letters of

recommendation also do not establish how the proposed endeavor may have national importance, as contemplated by the first *Dhanasar* prong. *See id.*

In turn, the CET list also does not address the Petitioner, her proposed endeavor, and how the specific endeavor she proposes to undertake may have national importance. For example, like the generalized publications and letters of recommendation, the CET list does not describe how the specific endeavor the Petitioner proposes to undertake may have national or even global implications within the field of medical research or any other field, such as those resulting from certain improved manufacturing processes or medical advances. The CET list also does not address whether the specific endeavor the Petitioner proposes to undertake may have significant potential to employ U.S. workers or have other substantial positive economic effects. *See id.* As noted above, the relevant question in determining whether a proposed endeavor is not merely whether the industry, field, or profession in which an individual will work is important. Instead, to assess national importance, we focus on the specific endeavor that the individual proposes to undertake, and we consider its potential prospective impact, looking for broader implications. *See id.* Because the CET list does not address the potential prospective impact of the specific endeavor the Petitioner proposes to undertake, it does not establish how the proposed endeavor may have national importance, as contemplated by the first *Dhanasar* prong. *See id.*

Although the Petitioner indicates that she intends to conduct medical research, as noted above, the record does not elaborate on any particular employer or location where she would conduct her research, nor did she describe how the specific endeavor she proposes to undertake may have national or even global implications within the field of medical research or any other field, and she did not assert that the proposed endeavor would employ anyone other than herself. The record does not establish how the specific endeavor the Petitioner proposes to undertake may have broader implications. For example, the record does not establish how the Petitioner's prospective research may have national or even global implications within the field of medical research or any other field, such as those resulting from certain improved manufacturing processes or medical advances. *See id.* As another example, the record does not establish how the proposed endeavor may have significant potential to employ U.S. workers, or have other substantial positive economic effects, particularly in an economically depressed area. *See id.* In turn, although the Petitioner references funding she has received, the record does not elaborate on how that funding establishes that the specific, prospective endeavor the Petitioner proposes to undertake may have broader implications, such as national or even global implications within the field of medical research, or any other field; significant potential to employ U.S. workers; or other substantial positive economic effects. *See id.* Because the record does not establish whether the specific endeavor the Petitioner proposes to undertake may have the type of broader implications indicative of national importance, it does not satisfy the first *Dhanasar* prong. *See id.*

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We reserve our opinion regarding whether the Petitioner qualifies for second preference immigrant classification, and whether the record satisfies the second or third *Dhanasar* prong. *See Bagamasbad*, 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7.

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 eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.