U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36831800

Date: MAR. 18, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a dentist planning to open a dental clinic, 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 although the Petitioner was an advanced degree professional and his proposed endeavor was of substantial merit, the record did not establish that his endeavor was of national importance.[1] 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.

[1] The Director stated, "Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar,* therefore, would serve no meaningful purpose." If the Petitioner were to overcome the issue of national importance on motion, we would remand for the Director to consider the second and third prongs more fully.

Citizenship and Immigration Services (USCIS) may, as matter of discretion,[2] 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.

Id.

II. ANALYSIS

At the time of filing, the Petitioner was working as a dentist with specialized knowledge in "dentistry, oral and maxillofacial surgery, traumatology, and clinical stomatology" and an adjunct professor in Brazil. He provided dental care to patients, consulted other dentists with their cases, and provided emergency dental care in hospitals. He states that he has taught various subjects as an adjunct professor in a dentistry program at a university in Brazil.

The Petitioner indicated that his proposed endeavor is to open a dental clinic in [redacted] Florida where he would be both the chief executive officer and a dentist. He intends to provide dental services to children, adults, and the elderly.[3] Further, the clinic will offer "the expertise of an oral and maxillofacial surgeon as part of its comprehensive suite of services."

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

The Director also found that the Petitioner did not establish the national importance of his proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicative of national importance. *Id.* at 889-90.

The Director found that the Petitioner did not establish the potential prospective impact of his proposed endeavor. Specifically, the Director found that the Petitioner did not explain how his endeavor will offer substantial economic benefits to an area, region, or industry. Further, the Director found that the

[2] *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).

[3] We note that the Director states that the Petitioner's proposed endeavor is "to work as a Dentist," as the Petitioner stated the title of dentist on Form I-140. The Petitioner initially stated his endeavor is to "employ his specialized knowledge in dentistry, oral and maxillofacial surgery, traumatology, and clinical stomatology into an American venture," a dental clinic. The Petitioner initially, and in response to the RFE, stated he would be the CEO of the company and would take on the role of a dental surgeon as well once he gained the necessary credentials to "practice as a dentist."

Petitioner had not substantiated how his endeavor would have global or national implications to the field. Next, the Director found that the Petitioner had not established this his endeavor will have a broader impact on the field outside of his company and clients.

On appeal, focusing on the national importance prong, the Petitioner argues that the Director's decision "lacks a proper analysis." Next, the Petitioner contends that the Director "inadvertently overlooked" his proposed endeavor's impacts on a matter that "a government entity has described as having national importance and is also the subject of national initiatives." Finally, the Petitioner argues that the Director "failed to consider the sum of the documents."

The Petitioner's argument that the Director's decision lacks a proper analysis on the national importance of his proposed endeavor is unpersuasive. The Petitioner suggests that the Director did not properly follow *Matter of Dhanasar*, 26 I&N Dec. 884. Citing *Dhanasar* and the USCIS Policy Manual, the Petitioner states that "an endeavor may have national importance because it has national or even global implications within a particular field" or "has significant potential to employ U.S. workers or other substantial positive economic effects."

The Director's decision specifically addresses *Dhanasar* to explain the analytical framework used in adjudication of national interest waivers. For instance, the Director reviewed counsel's statement that "[i]n addition to the petitioner's extensive and highly qualified work in clinical and surgical practice" the Petitioner is also an "important researcher and collaborator of science." The Director stated that evidence of "engaging in original research may help demonstrate national importance." After reviewing the Petitioner's evidence, the Director found that even though "the [P]etitioner now includes conducting research" as part of his endeavor "the record contains little information concerning any specific research projects." Further, the Director found that the record "lacks details about the specific areas to be researched, the objectives of conducting research, and how it will be funded and accomplished."

It is unclear how the Director erred in analyzing the Petitioner's endeavor under the *Dhanasar* framework. The Petitioner asserts that his proposed endeavor will serve as a "hub for innovation" by "advancing research in early oral cancer detection and surgical techniques." The Director reviewed the Petitioner's claim and found that the Petitioner had not demonstrated how his endeavor would advance research in the field broadly at a national or international level. Because the Director did not err in applying *Dhanasar* to the Petitioner's evidence, we find no reason to disturb the Director's decision.

The Petitioner argues that the Director "inadvertently overlooked" his proposed endeavor's impacts on a matter that "a government entity has described as having national importance and is also the subject of national initiatives." The Director addressed the Petitioner's STEM claim and referred to Petitioner's statement in her decision. While recognizing the Petitioner's claim, the Director quoted from the USCIS Policy Manual and found that the Petitioner did not establish that his proposed endeavor "aims to advance STEM technologies or research" or that it would have an "impact in a STEM field more broadly to establish its national importance." Thus, we conclude the Petitioner's argument is unpersuasive as the Director analyzed the STEM claim.

Next, the Petitioner contends that the Director "failed to consider the sum of the documents." Although the evidentiary standard in immigration proceedings is the preponderance of the evidence standard, the burden is on the petitioner alone to provide material, relevant, and probative evidence to meet that standard. Section 291 of the Act, 8 U.S.C. § 1361. A petitioner's burden of proof comprises both the initial burden of production and the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n. 3 (BIA 1998). To establish eligibility, a petitioner must satisfy the burden of production by filing documents, testimony, and other materials that meet the statutory, regulatory, and policy provisions sufficient to have an issue decided on the merits.

Here, the Petitioner does not explain how the Director failed to consider the totality of evidence in the record. The Petitioner contends that the Director did not specifically discuss components of the Petitioner's proposed endeavor regarding oral and maxillofacial surgery and stomatology.[4] However, in both his initial and revised business plans, the Petitioner states his company will "offer all services related to dental treatment at affordable prices" and lists typical services a dentist would provide. The Petitioner then adds that his company "will also offer more complex services such as oral and maxillofacial surge[ry]."[5] Surgery was not a main component of the stated endeavor.

Examining the overall "dental clinic," the Director found that the Petitioner had not established that his endeavor will have a broader impact beyond his company and clients after reviewing the evidence. Concerning the endeavor's potential economic impact, the Director found that the Petitioner "did not explain how the specific endeavor will offer substantial economic benefits to the area, region, or industry." The Director determined that "the evidence of record does not convey an understanding of how the petitioner's proposed employment activities stand to have a broader impact on the field, rising to the level of national importance." The Director noted that the Petitioner claims that "by the end of year 5, [the Petitioner's company] expects to hire a total of 19 employees." The Director determined that "[s]imply having the potential to employ U.S. workers does not rise to the requisite standard in *Dhanasar* that mandates the potential to be significant." *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Director also determined that the Petitioner had not established that his endeavor will have a broader impact on the field "outside of his prospective company and/or clients." Ultimately, the Director found that "the record is not supported by independent and objective evidence demonstrating that the petitioner's work has potential implications that are of national importance to the U.S." We agree.

On appeal, the Petitioner asserts that he "holds extensive academic and professional credentials that elevate him beyond the role of a general dentist." In the national importance section of his brief, the

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[4] When USCIS provides a reasoned consideration to a petitioner, and has made adequate findings, it is not be required to specifically address each claim a petitioner makes, nor is it necessary for it to address every piece of evidence a petitioner presents. *Amin v. Mayorkas*, 24 F. 4th 383, 394 (5th Cir. 2022); *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 2009); *Kazemzadeh v. U.S. Atty Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *see also United States v. Teixeira*, 62 F.4th 10, 25 (1st Cir. 2023) (concluding a trier of fact "need not articulate its conclusions as to every jot and tittle of evidence in making a determination").

[5] The Petitioner states that he does not have the credentials to practice dentistry in the United States but plans to obtain them. According to the Petitioner's revised business plan, his company plans to hire dentists and other staff. Concerning dental surgeons, the revised business plan mentions that the Petitioner will "assume the role of a dental surgeon" once he obtains the necessary credentials.

Petitioner states that his qualifications "include a Master of Science in Odontology with a specialization in Oral and Maxillofacial Surgery and Traumatology, a Ph.D. in Clinical Stomatology, as well as postgraduate training in Bucomaxillofacial Surgery and Implantology." However, we consider a petitioner's expertise and education under *Dhanasar's* second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar*, 26 I&N Dec. at 890. The issue is whether the Petitioner has demonstrated the national importance of his proposed endeavor. We conclude that the Petitioner has not.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by *Dhanasar's* first prong, the Petitioner has not demonstrated eligibility for a national interest waiver.

The Petitioner also asserts on appeal that the Director's decision is ambiguous and contradictory regarding his eligibility under *Dhanasar's* second prong. Further, the Petitioner argues that the Director acknowledged that the Petitioner was well-positioned to advance his endeavor in the request for evidence (RFE), yet did not explain the change of position in the denial where the Director found that he did not meet the second prong.[6] Finally, the Petitioner argues that the Director did not provide an explanation of why the Petitioner did not meet *Dhanasar's* third prong.

However, as the issue of national importance is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of his eligibility under *Dhanasar's* second and third prongs. *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 he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed.

ORDER: The appeal is dismissed.

[6] The Director did not provide an explanation as to why the RFE stated that the Petitioner had met *Dhanasar's* second prong while the denial found he had not met that prong. Because we resolve this appeal on another ground, we reserve our decision as to the Petitioner's eligibility under *Dhanasar's* second and third prongs. Should the Petitioner overcome the issue of national importance on motion, we would remand the matter for the Director's further review and analysis of the second and third prongs.