U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37393673

Date: MAR. 31, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a pharmacist, 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 the Petitioner had not established that eligibility for 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 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 their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The first 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.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In the instant matter, we agree with the Director's conclusion that the Petitioner's proposed endeavor, [redacted] a comprehensive pharmaceutical service, has substantial merit. However, while the Petitioner established that the proposed endeavor has substantial merit, the record does not show it has national importance.

The Petitioner intends to work as the [redacted] a pharmacy providing online health services and pharmaceuticals to patients across the country. The pharmacy will focus on healthcare outcomes for vulnerable populations such as the elderly and those with chronic conditions.

On appeal, the Petitioner asserts that the Director erred in concluding that the endeavor would not have substantial impact in the pharmaceutical field and that the decision failed to consider the broader, systematic impacts of the pharmacy's operations on public health and healthcare accessibility. The Petitioner also maintains that the Director did not properly analyze all the evidence and therefore reached an incorrect conclusion in the assessment of the well-positioned prong, and lastly did not address the specific benefits of waiving the labor certification.

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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 asserts that his endeavor is nationally important because not only will it "fill immediate gaps in healthcare access but also serve as a training center for new professionals, contributing to the national supply of qualified pharmacists." Yet, the Petitioner does not provide support for these assertions and continues to rely on the importance of the pharmacy field in general, stating, for example, that as the pharmaceutical industry evolves, "the need for skilled pharmacists becomes even more pressing." The Petitioner also contends that his proposed endeavor will "fill critical gaps in the national healthcare workforce." However, the alleged shortage of occupations or occupational skills

does not render his proposed endeavor nationally important under the *Dhanasar* framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

Although the Petitioner's statements reflect his intention to provide valuable services to future customers, he has not provided sufficient information and evidence to demonstrate that the prospective impact of the proposed endeavor rises to the level of national importance. In response to the Director's RFE, the Petitioner explains that [redacted] will provide medication dispensing, pharmaceutical consultation, health and wellness programs, specialty pharmaceutical services such as managing complex therapies, community health initiatives, 24/7 pharmacy support, and home delivery services, but he does not provide further explanation about these services such that they can be considered to extend beyond the patients receiving care. 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).

The Petitioner presented a recommendation letter from a medical scientist at [redacted] at [redacted] for example, who found the Petitioner's proposed endeavor has national importance. The letter emphasizes the Petitioner's "comprehensive understanding of the industry." However, the Petitioner's knowledge, skills, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong. Moreover, the letter repeatedly references the impact that the Petitioner will have on pharmacy customers rather than the required broader impact. Further, although the letter opines on the potential benefits of the endeavor's pharmacological services, the letter does not explain how they have broader implications for our country and lacks details as to how the endeavor will show a wider effect in the field of the Petitioner's particular proposed endeavor. Another recommendation letter from a colleague in the healthcare industry, J-E-P[2], indicates that the Petitioner can "play a key role in coordinating supply logistics and cost-effective supply chain management." Similar to the recommendation letter from [redacted] this letter lacks an explanation of the national importance of the proposed endeavor.

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. *Dhanasar* at 893. Here too, while we agree with the Petitioner that the endeavor would deliver "comprehensive pharmaceutical services to the local community, especially those with specific health needs." the record does not show how the proposed endeavor stands to sufficiently extend beyond those receiving these services to lead to "national or even global implications" to the healthcare field more broadly at a level commensurate with national importance. *Id.* at 889. We recognize that the Petitioner's endeavor of providing pharmaceutical services that focuses on dispensing medications and building a healthier community through "extensive patient education, support and engagement" will provide an important benefit to the community, but the Petitioner does not establish how the prospective impact of his employment as a single pharmacological company would have a broad impact consistent with national importance.

[2] We use initials to protect privacy.

Finally, while he provided a business plan for [redacted] the Petitioner did not present any supporting evidence, corroborating the assertions and figures. Moreover, the Petitioner did not demonstrate how the business plan's claimed revenue and employment projections have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Although the business plan forecasts sales from $130M in year 1 to $281M in year 5, the Petitioner did not establish the significance of this data to show that the benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Similarly, even though the business plan claims the creation of 10 positions in year 1 and 20 positions in year 5, the Petitioner did not demonstrate the relevance of these numbers and show that such future staffing levels would provide substantial economic benefits to the [redacted] Florida region or the U.S. economy more broadly at a level commensurate with national importance. The Petitioner, for instance, did not establish that such employment figures would utilize a significant population of workers in the area or would substantially impact job creation and economic growth, either regionally or nationally. For all these reasons, the record does not demonstrate that, beyond the benefits provided to its prospective clients and employees, the Petitioner's proposed endeavor has broader implications rising to the level of having national importance or that it would offer substantial positive economic effects.

III. CONCLUSION

Because the documentation in the record does not establish the national importance of the 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 the Petitioner's eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.[3]

ORDER: The appeal is dismissed.

[3] *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 alternate issues on appeal where applicants do not otherwise meet their burden of proof).