U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37809853

Date: MAY. 02, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a dentist, 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 SCOPS denied the petition, concluding that although the Petitioner established his eligibility for EB-2 classification, he did not demonstrate 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)(B)(i) of the Act.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, 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. While neither the statute nor the pertinent regulations define the term "national interest," *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 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 Director determined that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree and the record supports this conclusion. The issue on appeal is whether the Petitioner meets the requirements of the three prongs of the *Dhanasar* analytical framework and otherwise merits a national interest waiver as a matter of discretion. After reviewing the record in its entirety, we conclude that the Petitioner has not established eligibility for a national interest waiver for the reasons explained below.

The Petitioner proposes to contribute to the United States dental sector by integrating advanced dental technologies into clinical practice by working in a reputable clinic where he can apply his advanced skills in implantology, prosthodontics and aesthetic dentistry. In denying the petition, the Director addressed all three prongs of the *Dhanasar* framework. Determining that the proposed endeavor has substantial merit, the Director concluded that the Petitioner did not establish that his proposed endeavor has national importance, or that the Petitioner is well-positioned to advance the endeavor. Further, the Director explained that the Petitioner did not establish that on the balance, waiving the job offer requirement would benefit the United States.

On appeal, the Petitioner contends that the Director erred in analyzing the national importance prong by focusing narrowly on the localized impacts and economic benefits while disregarding the replicable benefits of the Petitioner's work. Asserting the Director ignored key details of the endeavor, didn't properly weigh the Petitioner's contributions and violated the Administrative Procedure Act (APA) by using vague reasoning, the Petitioner maintains the decision was in error.

The Petitioner demonstrated that he is a dental surgeon with more than 25 years of professional experience and is skilled in complex dental procedures specifically in implantology, prosthodontics and minimally invasive techniques and has mentored and trained dental professionals. In his career progression plan, the Petitioner explained the transformative impact of his work, particularly in developing and implementing advanced techniques such as immediate load implants and the X-GUIDE 3D dynamic navigation system, enhancing the success and recovery times for dental procedures. The Petitioner also details his experience in mentoring and training future dental professionals to alleviate the shortage of skilled practitioners and describes how he will focus on underserved populations.

To satisfy the first prong under the *Dhanasar* analytical framework, the Petitioner must demonstrate that his proposed endeavor has both substantial merit and national importance. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. The record supports the Director's determination that the Petitioner's proposed endeavor, which aims to improve the oral health of U.S. patients, has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. In the initial submission, the Petitioner provided published articles from professional and industry publications in support of his claim that he 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, and inequalities in the availability of dental care across different demographic populations, and the importance of dental care to overall health. This evidence provides support for the Petitioner's claim that his proposed work has substantial merit. However, 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." *See Dhanasar*, 26 I&N Dec. at 889. 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*.

While the Petitioner's statements reflect his intention to provide minimally invasive dental care to his clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. Based on his career progression plan, the Petitioner has not shown how the dental services he intends to deliver to his clients would have broader implications in the dental field. The Petitioner emphasized that he intends to establish himself as the owner of a cutting-edge dental practice and that his contributions will "help position the United States as a global leader in dental care by advancing innovation, promoting sustainability, and addressing healthcare gaps." The record supports a determination 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. However, the record does not establish that the work of one dentist or dental surgeon would have a nationally significant impact in this field.

The record contains information intended to show that there is a shortage of dentists in the United States. But this shortage is likewise insufficient to demonstrate the national importance of any clinic or clinics that the Petitioner may establish. A shortage of qualified professionals alone does not render the work of an individual dentist nationally important under the *Dhanasar* precedent decision. Several of the Petitioner's claims of national importance could reasonably apply to any dental practice, but Congress did not provide a blanket exemption for dentists with respect to the job offer and labor certification requirement.[2] Foreign dentists are typically subject to this requirement and therefore the intrinsic benefits of operating a clinic are not presumptive grounds for waiving that requirement.

On appeal, the Petitioner maintains that his clinic or clinics will have substantial positive economic effects and explains that his expertise in "immediate-load osseointegrated implants and 3D-guided surgical systems introduced methods that significantly reduce the need for corrective procedures, lower the risk of surgical complications, and enhance the durability of dental restorations" leads to quicker recovery times and greater occupational efficiency in clinics. He maintains that the economic advantages extend far beyond the individual dental clinics and allows for the replication and broader adoption of care model.

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[2] The U.S. Department of Labor addresses shortages of qualified workers through the labor certification process. A determination as to whether the benefits inherent in the labor certification process are outweighed by other favorable factors relates to the balancing analysis set forth under the third prong of the *Dhanasar* analytical framework.

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 be understood to have national importance." *Id.* at 890. However, the burden is on the Petitioner to establish that the economic effects of his proposed endeavor are "substantial. Here, the Petitioner did not provide evidence, other than the general claims regarding the improvements to care, as to how his particular proposed endeavor would have any projected U.S. economic impact or job creation. Without such evidence, the record does not show any benefits to the U.S. regional or national economy resulting from his services or position would reach the level of "substantial positive economic effects" as contemplated by *Dhanasar*. *Id.* at 890.

Further, the Petitioner has emphasized the importance of his industry or profession, his long career as a dental surgeon in Brazil, and his expected leadership role in his 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 his 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." *Id.* The issue here is whether the specific endeavor the Petitioner proposes to undertake has national importance under *Dhanasar's* first prong.

The Petitioner focuses on the importance of the minimally invasive techniques which can be replicated across various regions, impacting clinics and professionals throughout the United States and thereby raising standards across the dental sector. However, he does not provide further explanation of how he would replicate these techniques and innovative methodologies such that they can be considered to extend beyond his individual patients and clinics. 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).

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 reducing the need for invasive treatments is important, the record does not show how his proposed endeavor stands to sufficiently extend beyond his patients to lead to "national or even global implications" to the healthcare field more broadly at a level commensurate with national importance. *Id.* at 889. Likewise, we recognize that the Petitioner's endeavor could enhance the qualifications of the workforce in the dental health sector, but he does not establish how the prospective impact of his employment as the owner of a cutting-edge dental practice or a senior partner in an advanced clinic would have a broad impact consistent with national importance.

We acknowledge that the Petitioner provided expert opinion and recommendation letters patients, experts in the field and professors. One professor at the [redacted] addressed the first prong of the *Dhanasar* framework, and wrote of the Petitioner that "he will certainly have much to add to the dental service in the United States." Another dentist and renowned professor explained that the Petitioner's work as a dentist would "bring countless

benefits to Americans in terms of high-quality dental care, but it will also contribute to job creation, since operating a dental clinic involves a diverse team of professionals and support staff."

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 expert opinion and recommendation letters do not sufficiently demonstrate that the Petitioner's proposed endeavor has significant potential to employ U.S. workers or otherwise offers the "substantial positive economic effects" for our nation contemplated by *Dhanasar*. *Id.* at 890. The letters lack evidence to establish that the Petitioner's dental services through his company would employ a significant population of workers in an economically depressed area, or that his endeavor would offer a particular U.S. region or its population a substantial economic benefit through employment levels or business activity.

Regarding the Petitioner's contention that the Director used unclear language in the decision and violated the APA, the Petitioner does not cite to a specific section of the APA that the Director violated. Rather, the Petitioner asserts that the request for evidence (RFE) and the denial consisted of contradictory, arbitrary and boilerplate statements containing little to no discussion regarding the evidence submitted. While the Director did use common language regarding the requirements and acceptable evidence for the adjudication, it is clear from the denial that the Director gave individualized consideration to the Petitioner's endeavor. In the decision the Director noted the evidence supporting the petition and analyzed the important documents, specifically regarding the proposed endeavor and the letters of recommendation, thereby indicating this information was evaluated in reaching the decision.

For the reasons discussed, the Petitioner has not demonstrated that his proposed endeavor would be of national importance, and he therefore does not meet the requirements of the first prong of the *Dhanasar* analytical framework. Although the Director also concluded that the Petitioner had not established his eligibility under the second and third prongs of the *Dhanasar* framework, detailed discussion of the remaining prongs cannot change the outcome of this appeal. Therefore, we reserve those issues and will dismiss the appeal for the reasons above and as a matter of discretion.[3]

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not demonstrated his eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

[3] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *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).