U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42729816

Date: MAY. 21, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, [redacted] seeks to employ the Beneficiary as an assistant professor of otolaryngology–head and neck surgery. [redacted] requests the Beneficiary's classification under the 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).

Service Center Operations (SCOPS) denied the petition, concluding that although the Beneficiary qualified for the classification as a member of the professions holding an advanced degree, the Petitioner 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 the Beneficiary's 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 Petitioner intends to employ the Beneficiary as an assistant professor of otolaryngology–head and neck surgery (HNS) at the [redacted] at [redacted] in [redacted] Pennsylvania. SCOPS found that the Beneficiary qualifies for the underlying EB-2 classification.[2] The remaining issue to be determined is whether the Petitioner has established that a 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 Beneficiary's proposed endeavor's national importance under the first prong of the *Dhanasar* analytical framework.

In denying the petition, SCOPS acknowledged that the Beneficiary's proposed endeavor has substantial merit. SCOPS determined, however, that the Petitioner did not establish the national importance of the Beneficiary's proposed endeavor, that he is well-positioned to advance, and that, on balance, it would benefit the United States to waive the job offer requirement. On appeal, the Petitioner argues that SCOPS "disregarded extensive probative evidence demonstrating the importance and national impact of [the Beneficiary's] work, his standing and recognition in the field of head and neck oncology."

The Petitioner also argues that SCOPS applied a narrow interpretation of *Dhanasar* by concluding that the Beneficiary's endeavor's impact would not extend beyond his employer and local community. The Petitioner further asserts that SCOPS did not properly evaluate the Beneficiary's published and presented work, citation record, letters of support, and professional experience. The Petitioner maintains that the evidence submitted with the initial petition and in response to SCOPS' request for evidence (RFE) sufficiently establishes the Beneficiary's eligibility for the national interest waiver.

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 the initial petition, the Beneficiary explained that he is "pursuing a national interest waiver in order to continue working as a head and neck cancer surgeon in the United States." He stated that he intends to build upon his prior work and continue developing advanced technologies within the field. In response to the RFE, the Beneficiary clarified that his current clinical and investigative efforts "focus on several key initiatives of national relevance," including "refining precision immunotherapy approaches for melanoma and advanced skin cancers." He also stated that the next phase of his

[2] The Beneficiary earned a Doctor of Medicine degree from the [redacted] Israel in 2012.

research will involve analyzing "real-world U.S. patient data to identify the subgroups most likely to benefit from immunotherapy, minimize exposure to unnecessary toxicity, and reduce wasteful spending on ineffective treatments." He also indicated that he plans to establish "the first" radiofrequency ablation clinic in [redacted], intended to be a "a minimally invasive alternative to surgical thyroidectomy that reduces complications and recovery times while maintaining therapeutic efficacy." In support of the petition, the Petitioner submitted various documents, including the Beneficiary's curriculum vitae, academic and employment records, statement of intent, licenses and certifications, and expert opinion and recommendation letters. The Petitioner also provided the Beneficiary's Google Scholar citation record, peer-reviewed journal articles, as well as industry reports and articles. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

The Petitioner asserts that the Beneficiary's proposed endeavor "provides broad and substantial benefit" to the United States by advancing "public health priorities in cancer care, research, and equity," and strengthening the country's "leadership in oncologic science and biomedical innovation." To evaluate whether the Beneficiary's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of the Beneficiary's work. In *Dhanasar*, we 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." *See Dhanasar*, 26 I&N Dec. at 890. 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. Here, the record does not include adequate corroborating evidence, to show that the Beneficiary's specific proposed endeavor offers broader implications in his field, enhancements to U.S. societal welfare, or substantial positive economic effects for the country that rise to the level of national importance.

The Beneficiary also states that his "specializations within the field of head and neck surgical oncology, plays a critical role in the broader landscape of cancer treatment in the United States." However, the Petitioner has not demonstrated that the Beneficiary's proposed role as an assistant professor of otolaryngology and related activities would have a significant impact beyond his employer and patients to create a broader regional or national impact. Similarly, although the Beneficiary affirms that he is "deeply committed to advancing the field through both clinical practice and scientific inquiry," the evidence does not sufficiently establish how his specific activities would extend beyond his employer, patients, or local community to create a broader impact.

The Beneficiary declares that his "research and leadership have directly advanced national standards of care in head and neck oncology." In addition, he contends that his past research projects, scholarly publications, and independent expert letters demonstrate both his past contributions and the prospective impact of his proposed endeavor. For example, the letter from C-S- praises the Beneficiary's significant abilities and unique contributions.[3] The author states that the Beneficiary had made "tangible advancements" in "patient care, surgical innovation, scholarship[,] and research" and that his work has "expanded both technical and conceptual knowledge" within the field while serving the national interest of the United States. The letter also notes that the Beneficiary holds "dual appointments as an assistant professor in the department otolaryngology-[redacted] at [redacted] and as a

[3] While we discuss a sampling of these letters, we have reviewed and considered each one.

clinician at [redacted]" with responsibilities, including clinical care, attending [redacted] and "leading research endeavors into the pathology, diagnosis, treatment of related otolaryngological diseases, and many quality-of-life improvement projects for head and neck cancer patient population." The record further contains additional letters attesting to the Beneficiary's professional skills and contributions to the fields of otolaryngology and [redacted]

Nevertheless, the evidence does not sufficiently establish the extent to which the Beneficiary's work will involve research activities as opposed to his teaching, clinical, and patient care responsibilities. Although the Beneficiary has participated in prior research and published scholarly articles, the record does not provide sufficient information regarding how much time he intends to dedicate to future research activities. 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. *Id.* at 893. Likewise, the Petitioner has not adequately demonstrated that the Beneficiary's specific work will have an impact that will rise to the level of national importance.

As a comparison, the petitioner in *Dhanasar* demonstrated that he conducted research and development in the field of air and space propulsion, more specifically, hypersonic propulsion systems involving speeds above Mach 5, and he had developed a novel method for accurately calculating hypersonic airflow. *Id.* at 891-92. In addition, he submitted evidence reflecting that he would continue his research into designing and developing propulsion systems in nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles and substantial supporting evidence to support how his continued research would assist the United States in maintaining its advantage over other nations in hypersonic flight, including supporting documentation reflecting his receipt of funding from a government entity for his research. *Id.*

Here, while the Beneficiary's expert and support letters are favorable and reflect positive assessments of his abilities and professional contributions, they do not offer sufficient, detailed, and concrete examples of how the Beneficiary's proposed endeavor has the potential for broad and measurable implications for the country that would rise to the level of national importance. In addition, the first prong focuses on the proposed endeavor itself, not the Beneficiary. *Id.* The Petitioner must establish that the Beneficiary's specific endeavor has national importance under *Dhanasar's* first prong. Although an individual's experience, qualifications, contributions, and achievements are material, they are misplaced in the context of the first *Dhanasar* prong. The Beneficiary's professional experience is generally material to *Dhanasar*'s second prong—whether an individual is well positioned to advance a proposed endeavor—but they are generally immaterial to the first *Dhanasar* prong—whether a specific, prospective, proposed endeavor has both substantial merit and national importance. *See id.* at 888-91.

The Petitioner insists that the Beneficiary's proposed endeavor "directly addresses a nationally recognized public health concern and aligns with federal priorities in cancer care." While we acknowledge the substantial merit of the Beneficiary's proposed endeavor, the Petitioner has not sufficiently explained or demonstrated how the Beneficiary's employment would independently lead to broader impact that will rise to the level of national importance. Moreover, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. As previously mentioned, in determining 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." *Id.* at 889. Here, the Petitioner has not

sufficiently explained how the Beneficiary's endeavor would have a broad impact, rising to the level of national importance. Likewise, the Petitioner has not demonstrated that the Beneficiary's specific proposed endeavor's impact would extend beyond his employer, patients, and students to impact the field more broadly. "Benefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a person's endeavor has national importance." *See generally 6 USCIS Policy Manual,* F.5(D)(3), https://www.uscis.gov/policymanual. "At issue is whether the petitioner can demonstrate that the person's own individual endeavor stands to have broader implications, such as for a field, a region, or the public at large." *Id.*

For the aforementioned reasons, the Beneficiary's proposed endeavor does not meet the first prong of the *Dhanasar* framework. Because the documentation in the record does not establish the national importance of the Beneficiary's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated the Beneficiary's 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 the Beneficiary's eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (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).

III. CONCLUSION

As the Beneficiary has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established that the Beneficiary is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.