U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37190119

Date: MAY 30, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 the record did not establish that the Petitioner is eligible for a national interest waiver as a matter of discretion. 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.* If a doctoral degree is customarily required for the specialty, the non-citizen must possess a U.S. doctorate or a foreign equivalent degree. *Id.*

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:

- 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.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Petitioner's proposed endeavor is to open a healthcare consultancy in Texas specializing in pediatric pulmonology. SCOPS determined that the Petitioner established her eligibility for the EB-2 classification as a member of the professions holding an advanced degree. SCOPS further concluded that the Petitioner's proposed endeavor is of substantial merit; however, she did not establish that her proposed endeavor is of national importance, that she is well positioned to advance the endeavor, or that on balance, waiving the job offer requirement would benefit the United States. Therefore, SCOPS concluded that the Petitioner did not establish eligibility for a national interest waiver. On appeal, the Petitioner contends that SCOPS misapplied the *Dhanasar* standard. Upon de novo review, we conclude the record does not establish the Petitioner's proposed endeavor is of national importance and therefore she is not eligible for a national interest waiver as a matter of discretion.

A. EB-2 Classification

As stated above, SCOPS determined that the Petitioner established her eligibility for the EB-2 classification as a member of the professions holding an advanced degree stating that the Petitioner submitted evidence that she "was awarded doctorates." The regulations state that an advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). However, if a doctoral degree is customarily required for the specialty, the non-citizen must possess a U.S. doctorate or a foreign equivalent degree. *Id.* The Petitioner titles her foreign degree as a "bachelor's degree as medical doctor." She does not claim that this is a doctoral degree, nor does the record contain evidence to support the conclusion that this degree is the foreign equivalent to a U.S. doctorate. The Petitioner states that she is "qualified to act as a consultant, trainer, and researcher" in her field; thus, not proposing to work as a doctor, in which case a doctoral degree would not be required[2].

The record reflects that the Petitioner is applying as a member of the professions holding an advanced degree by submitting evidence of a foreign bachelor's degree and asserting she has five years of

[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).

[2] We note that the Petitioner submitted a job offer letter to support her assertion that she is well-positioned to advance her proposed endeavor. Notably, the Petitioner has been offered the position of "Pediatric Pulmonologist," which contradicts the record stating that the Petitioner will be CEO of her company and will act as a consultant, trainer, and researcher. A proposed endeavor providing medical services as a "Pediatric Pulmonologist" would require the Petitioner to have the foreign equivalent of a U.S. doctoral degree as a doctorate is customarily required for the profession. 8 C.F.R. § 204.5(K)(2). As stated above, the record does not reflect that the Petitioner has a U.S. doctorate or its foreign equivalent.

experience in the specialty. The Petitioner submitted evidence of a foreign "physician and surgeon" degree and its transcript; however, the record does not contain sufficient evidence, such as an academic evaluation, to support a determination that the foreign degree is equivalent to a U.S. bachelor's degree. In addition, a U.S. bachelor's degree or foreign equivalent degree must be followed by five years of progressive experience in the specialty to be considered an advanced degree. 8 C.F.R. § 204.5(K)(2). In support of her five years of progressive experience, the Petitioner submitted her resume and several "employment verification letters." However, the letters do not meet the requirements under 8 C.F.R. § 204.5(g)(1) and therefore do not establish qualifying experience.[3] For example, the first letter is written in support of the Petitioner's application for a project grant, but does not state the Petitioner's duties, or discuss details of her employment such as her dates of employment. Similarly, the second letter in the record under "employment verification letters" is from a medical center that states the Petitioner is volunteering with them and that they recommend her for a residency program but does not describe her duties or corroborate her dates of employment. The record further contains verification of the Petitioner's employment as a "rural doctor" in Venezuela from January 2014 to January 2015, however the letter does not describe her duties. Therefore, the record does not establish the Petitioner has the required five years of progressive experience in the specialty. We note that SCOPS did not determine whether the Petitioner is eligible for EB-2 classification as an individual of exceptional ability. 8 C.F.R. § 204.5(k)(3)(ii). However, as the Petitioner has not established she is otherwise eligible for a national interest waiver, we need not reach, and therefore reserve, the issue of the Petitioner's eligibility for the EB-2 classification.[4]

B. National Interest Wavier

1. Substantial Merit

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.* The Petitioner's proposed endeavor is to open a company in Texas that provides consulting services, training programs, research, and tailored diagnosis and treatment plans within the field of pediatric pulmonology. The record contains articles about the shortage of medical specialists, information on respiratory illnesses in children, and initiatives to address these challenges. We conclude that the record establishes the substantial merit of the Petitioner's proposed endeavor.

2. National Importance

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* The Petitioner asserts that SCOPS' "interpretation appears too narrow in its analysis of national importance, overly emphasizing geographic scope" and economic impact. The

[3] 8 C.F.R. § 204.5(g)(1) states, in part, "[e]vidence relating to qualifying experience or training shall be in the form of letter(s) from current or former employer(s) or trainer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien or of the training received. If such evidence is unavailable, other documentation relating to the alien's experience or training will be considered."

[4] *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).

Petitioner contends that the decision did not properly evaluate the broader implications of her proposed endeavor to healthcare and public welfare. The Petitioner is correct that we do not evaluate prospective impact solely in geographic terms. Instead, we look for broader implications. Even ventures and undertakings that have as their focus one geographic area of the United States may properly be considered to have national importance. *Matter of Dhanasar*, 26 I&N Dec. at 889-890. However, we agree with SCOPS that the record does not establish the Petitioner's proposed endeavor is of national importance under the *Dhanasar* framework as discussed below.

The Petitioner contends that her proposed endeavor is of national importance as it addresses a national healthcare priority; an acute shortage of pediatric pulmonologists, particularly in rural and underserved areas. The record contains numerous articles about a shortage of medical professionals, specifically in pediatrics, and the impact of this shortage on various places in Texas. While we acknowledge the shortage of workers in this field, this does not establish her proposed endeavor has national importance. A shortage of qualified professionals does not render the work of an individual nationally important under the *Dhanasar* decision. Here, the Petitioner has not established that her proposed endeavor stands to impact or significantly reduce these claimed national shortages. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process. Further, the Petitioner states that her company will target Health and Professional Shortage Areas (HPSA) in Texas. The business plan states that the Petitioner "will operate in Texas," but no specific areas of Texas are identified in order to evaluate if her company will be in a designated HPSA or will impact designated HPSAs. Therefore, we cannot determine that the Petitioner's proposed endeavor will broadly impact rural and underserved areas. *Id.*

The Petitioner further states that her proposed endeavor is directly in line with federal efforts such as the Healthcare Workforce Resilience Act; which she states, seeks to resolve healthcare disparities in medically underserved communities. While the federal initiatives may speak to the significance of the field, it does not establish the specific endeavor's potential prospective impact. Regardless of whether a generalized industry or field may have national importance or is the subject of a national initiative--the record must nevertheless establish how "the specific endeavor that the [Petitioner] proposes to undertake" may have "national or even global implications *within a particular field,* such as those resulting from certain improved manufacturing processes or medical advances" or broader implications, such as "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Id.* (emphasis added). In *Dhanasar* we stated that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the [Petitioner] proposes to undertake." *Id.* at 889. As such, the Petitioner must demonstrate the national importance of her specific endeavor. Here the record does not support such a conclusion.

The Petitioner asserts that her proposed endeavor is comparable to *Dhanasar* as her company will also conduct research, in this case, on pediatric sleep disordered breathing and respiratory illnesses in children. She states that her work aims to establish national diagnostic standards for infant sleep apnea and improve early diagnosis and treatment; resulting in better long term health outcomes for children and aligning with the national goal of improving healthcare standards, reducing hospital admissions, and decreasing healthcare costs. The business plan states that the Petitioner's company will conduct research to identify the prevalence and patterns of respiratory conditions in children across Texas, will

partner with healthcare institutions to conduct clinical trials and studies on new treatments, and analyze local and state policies related to air quality, environmental health, and access to care and provide recommendations for improvement. However, the record does not establish how researching these areas can lead to the intended outcome. In *Dhanasar* we stated that an undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances. *Matter of Dhanasar*, 26 I&N Dec. at 889.

While the Petitioner contends that her research will have broad implications within the pediatric pulmonary healthcare field, the record is insufficient to corroborate this claim. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. The business plan contains insufficient information for us to evaluate the broader implications of her research. For example, research is one of many services the Petitioner's company will provide, and the record does not detail how much of the company's time will be spent on research. The business plan lists that the company will also offer consulting, training, and tailored diagnosis and treatment plans and the record does not detail how much of the company's time will be spent on research in order for us to evaluate the scope of the proposed research.

In addition, the record lacks sufficient details about the research itself. The Petitioner states that they will, in part, "conduct studies to identify the prevalence and patterns of respiratory conditions in children across Texas." However, the record does not provide details on how this research will be conducted, how the results would be disseminated, or how the research would be utilized to improve diagnostic standards to properly evaluate its impact. Further, the record lacks sufficient corroborating evidence of the Petitioner's research and it's prospective impact. The record contains an expert opinion letter which generally reiterates the claims the Petitioner makes regarding the goal of her research, but the record does not contain corroborating evidence of the specific research the Petitioner proposes to undertake or the impact of this research on the broader field of pediatric pulmonology. While we recognize that research in the field of pediatric pulmonology may result in broader implications to the field, the Petitioner has not clearly explained her research plans, nor does the record contain sufficient supporting evidence of the prospective impact or information identifying how the company will allocate its time. Such information is necessary to evaluate whether the research initiatives of the company would lead to broader implications commensurate with national importance.

Further, the record establishes that the impact of the remainder of the Petitioner's services is limited to the company's direct clients. For example, the company will conduct evaluations of existing respiratory care and sleep medicine practices in the healthcare setting and provide recommendations for improvements. Without additional evidence of a broader impact, the record establishes the impact is limited to the company's direct clients. Similarly, the company's service of providing tailored diagnosis and treatment plans will impact their direct clients. While we acknowledge these services could improve the healthcare practices and lives of her prospective clients, the Petitioner has not established how these individualized benefits rise to the level of national importance. 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. *Matter of Dhanasar*, 26 I&N Dec. at 893. Here too, the record does not establish that the Petitioner's proposed endeavor stands to sufficiently extend beyond her potential clients to impact the pediatric pulmonology field or societal welfare more broadly at a level commensurate with national importance.

Additionally, the Petitioner's company will offer training programs which she contends show her commitment to training future pediatric pulmonologists and educating healthcare professionals which addresses another national concern; the need for a sustainable and well-trained healthcare workforce. However, as stated above, 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. *Matter of Dhanasar*, 26 I&N Dec. at 893. Therefore, we conclude the Petitioner's teaching activities do not demonstrate an impact at a level commensurate with national importance. Furthermore, beyond discussing the economic impact of the medical field in general, the Petitioner has not demonstrated that her intended work as the CEO of a healthcare consultancy has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation directly attributable to her future work, as opposed to the general economic impact of the industry, the record does not show that benefits to a regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890.

Therefore, the record does not establish the Petitioner's proposed endeavor is of national importance under the *Dhanasar* framework. While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.