U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43883225

Date: SEPT. 1, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a surgeon and researcher, 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).

USCIS denied the petition, concluding that the record did not establish that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he 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 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. NATIONAL INTEREST WAIVER

In denying the Petition, USCIS determined that the Petitioner's proposed endeavor has substantial merit and that the Petitioner is well-positioned to advance the proposed endeavor. However, USCIS concluded that the Petitioner did not establish the national importance of his proposed endeavor and that, on balance, it would benefit the United States to waive the job offer requirement. We agree with USCIS' determination that the Petitioner's proposed endeavor has substantial merit. However, as discussed below, we conclude the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

On appeal, the Petitioner argues that his endeavor is not limited to "individualized patient care" and that USCIS "misapplied" the *Dhanasar* decision "by evaluating [his] proposed endeavor through an unduly narrow lens and by failing to assess its forward-looking implications within orthopedic surgery, hip preservation, early diagnosis, physician training, academic dissemination, and specialized clinical practice improvement."

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.* 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 indicating national importance. *Id.* at 889-90.

At the time of filing, the Petitioner listed his job title as "orthopedic and traumatology specialist" and stated that his proposed endeavor is "to continue revolutionizing hip pathology treatment-making surgeries less invasive, recovery quicker, and outcomes aesthetically pleasing." He claimed that he intends to use his "almost forty-year-experience managing complex hip and pelvis-related disorders and pioneering innovative treatment and prevention practices, to revolutionize the overall approach to these pathologies in the United States" and "enhance the American healthcare system in the field of traumatology and orthopedics" by making surgeries less invasive and improving recovery and patient outcomes. He further stated that the impact of his work "extends beyond any institution," claiming that his diagnosis and treatment methodologies are "applied worldwide" and that their accessibility "demonstrates broad enhancement of societal welfare."

The Petitioner did not provide evidence adequately supporting his assertions about the "worldwide" application of his methodologies or their impact on societal welfare, as claimed. Rather, in support of his assertions, the Petitioner provided testimonial letters of recommendation from clinicians in Chile

specializing in various disciplines, including critical care and public health, knee reconstruction, hip and pelvic trauma, and orthopedic surgery. The letters mainly address the Petitioner's skills and experience in the field of orthopedics and traumatology, as in the letter from Dr. R-Y-, board president at [redacted] who highlighted the Petitioner's "innovative approach to treating hip dysplasia" and generally praised his "extensive knowledge and innovative patient care approaches." However, the Petitioner's skills, knowledge, and prior work in his field 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 she proposes to undertake has national importance under *Dhanasar's* first prong.

Regarding the Petitioner's proposed endeavor's prospective impact, Dr. L-C-, an anesthesiologist and critical care practitioner at the [redacted] stated that the Petitioner's work "promises substantial improvements in patient prognoses" and "represents a critical investment in the future of the United States' healthcare and economic well-being." Also, Dr. D-F-, head of the knee unit at [redacted] pointed to U.S. healthcare initiatives concerning the emphasis on preventive care and stated that the national importance of the Petitioner's work in the United States "lies in his potential to greatly improve orthopedic care and education." He further asserted that the Petitioner's "expertise in treating complex hip conditions and his innovative surgical techniques are invaluable assets that could benefit the U.S. healthcare system."

On appeal, the Petitioner argues that the previously submitted letters of recommendation "address[] the value of [his] proposed endeavor in hip preservation, minimally invasive surgical refinement, treatment of hip and pelvis disorders, physician training, and dissemination of specialized orthopedic knowledge." We disagree, however, that the letters establish the national importance of the Petitioner's endeavor.

Although the letters generally reference the national importance of the proposed endeavor, the record lacks evidence demonstrating that the Petitioner's proposed work would impact the U.S.'s medical field – namely, orthopedics and traumatology – at a level indicative of national importance. It is insufficient to claim that an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. *See Matter of Chawathe*, 25 I&N Dec. at 376 (establishing that it is a petitioner's burden to provide relevant, probative, and credible evidence to support their claims). Here, the recommendation letters from colleagues and associates in the medical field do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence to show that the Petitioner's specific proposed work offers broader implications for the U.S. medical field or substantial positive economic effects for our nation, or that the endeavor stands to significantly enhance societal welfare at a level that is commensurate with having national importance.

The Petitioner also supplements the record on appeal with an "Expert Opinion Letter" from J-H-A, an associate professor at [redacted] asserting that the letter supports the national importance of the proposed endeavor as it explains that the Petitioner's proposed work "is a transfer of a proven training and care model into the United States" as opposed to an individual patient plan with limited impact. J-H-A- discussed the Petitioner's "four delivery mechanisms" that include: 1) cadaveric and virtual simulation labs supervised surgical practice; 2) tele-mentoring designed to offer "real-time guidance from [the Petitioner] to surgeons in rural or underserved settings"; 3) a "continuing medical

education certification model system" intended to make continued training as "part of the permanent infrastructure rather than a one-time event"; and 4) an "outcome registry."

While J-H-A-'s advisory opinion highlights the importance of the proposed endeavor, the record lacks sufficient corroborating evidence explaining how the Petitioner plans to implement that endeavor on a broad scale to support his and his colleagues' claims that his methodologies will broadly impact U.S. surgical intervention methods and care protocols for patients with hip and pelvis disorders. *Id.* And although the Petitioner claims that he will "develop comprehensive training programs and workshops for orthopedic surgeons and healthcare professionals," it is unclear how his endeavor would reach beyond the individuals who enroll in his programs and workshops. The record lacks sufficient evidence to show that the programs and workshops would be implemented on such a broad scale as to result in impact that is commensurate with national importance. As stated above, unsupported assertions and speculation have no evidentiary value and are insufficient to establish a filing party has satisfied their burden of proof. *Id.*

We also acknowledge the Petitioner's prior submission of industry articles stressing the importance of hip and joint health and the benefits of minimally invasive surgery. In response to USCIS's request for evidence the Petitioner summarized the articles and explained their relevance to his proposed endeavor, and on appeal he maintains that the articles serve as "[o]bjective evidence connecting the endeavor to national healthcare needs." However, the articles do not discuss the Petitioner or his specific endeavor. As stated herein, the articles primarily focus on the importance of orthopedic intervention and improving minimally invasive surgical options, but merely working in an important field – in this case orthopedics and traumatology – is insufficient to establish the national importance of the proposed endeavor. In determining the national importance of a proposed endeavor, 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.

Further, while the Petitioner includes a research component as part of his proposed endeavor and the record shows that the Petitioner has participated in prior research and published scholarly articles, the record does not offer sufficient information regarding the amount of time the Petitioner intends to dedicate to future research activities; nor does the Petitioner adequately address the issue of funding for his planned research, stating only that he will "seek funding through competitive grants from research institutions and federal agencies," yet offering no information about any such institutions or agencies. 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 his intended research work will have an impact that will rise to the level of national importance.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of the Petitioner'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 Petitioner's specific activities would broadly impact the Petitioner's field of orthopedics and traumatology or that they would offer enhancements to U.S. societal welfare or substantial positive economic effects rising to the level of national importance.

III. CONCLUSION

The documentation in the record does not establish the national importance of the Petitioner's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. As such, the Petitioner has not demonstrated that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. Because this issue is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of his eligibility under the third prong of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. at 25.

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.