U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 33951403

Date: SEPT. 30, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a veterinarian, 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).

The Director of the Texas Service Center denied the petition, concluding the record did not establish 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. Our precedent decision in *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

[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).

- 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 an advanced degree professional.[2] Therefore, the remaining issue to be determined is whether the Petitioner has established eligibility for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Petitioner proposes to continue working as a veterinarian in a clinic or hospital. Through her endeavor, she plans to "help[] to control the population of stray animals through sterilization and rais[e] awareness among people on its significant role in optimizing animal population control and reducing the rate of diseases that aggravate the health situation of the American population."

The Director concluded that the Petitioner's endeavor has substantial merit but not national importance under *Dhanasar's* first prong. On appeal, the Petitioner asserts that the Director did not provide a sufficient analysis explaining why her proposed endeavor does not meet this requirement.

Upon de novo review, we agree with the Director's conclusion that, while the Petitioner's proposed endeavor has substantial merit, it does not have national importance. Therefore, the Petitioner has not met her burden to show she satisfied *Dhanasar's* first prong. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

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 specific endeavor that the foreign national proposes to undertake." *Id.* at 889. 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." *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.

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[2] As we will discuss below, the Petitioner has not satisfied the requirements of *Dhanasar's* first prong. Therefore, the petition cannot be approved. As such, we will reserve our determination of the Petitioner's eligibility for EB-2 classification and will not address this portion of the Director's decision further. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule 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 D-L-S-*, 28 I&N Dec. 568, 577 n.10 (BIA 2022) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). This should not be construed as agreement that the Petitioner has satisfied this requirement.

Here, the Petitioner has not offered sufficient evidence to demonstrate that her proposed endeavor's prospective impact rises to the level of national importance. The Petitioner has not shown that her future work as a veterinarian stands to sufficiently extend beyond her employer and its clients to impact the veterinary industry, region, or nation more broadly at a level commensurate with national importance.

The Petitioner argues that her proposed endeavor has national importance primarily because it will promote societal welfare. She attempts to emphasize the broader implications of her endeavor by linking it to the importance of controlling animal overpopulation and maintaining general animal health and welfare, which she claims will prevent the transmission of zoonotic diseases and, therefore, protect U.S. public health as a whole. While we agree that the health and welfare of animals, and by extension their owners and other individuals in the community, holds merit, the record does not sufficiently show how any "ripple effects" of her veterinary services, particularly sterilization and sterilization awareness education, will implicate the greater national interest. Specifically, the Petitioner has not adequately demonstrated how her work as a single veterinarian for an individual clinic providing veterinary services would have a significant impact on the region, nation, or field beyond her immediate sphere of influence. For example, while the Petitioner's future work will directly benefit the stray animals, pets, and consequently their respective owners, she has not adequately explained, and the record does not show, how her activities would sufficiently extend beyond this small subset of stray animals and pets to have such broader impact that it would rise to the level of national importance.

The Petitioner asserts that her proposed endeavor aligns with the Biden-Haris Administration's statements on attracting talent in science, technology, engineering, and mathematics (STEM) and with the U.S. Citizenship and Immigration Services (USCIS) policy recognizing the importance of progress in STEM fields. *See* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual. However, with respect to the first prong, as in all cases, the evidence must still demonstrate that the STEM endeavor has both substantial merit and national importance. In other words, whether a proposed endeavor is in a STEM field is not itself dispositive. As discussed above, while the Petitioner's proposed endeavor has substantial merit, the record does not sufficiently establish that her proposed endeavor to sterilize animals and promote awareness of the benefits of sterilization has sufficiently broad potential implications extending beyond her immediate clients to rise to the level of national importance.

In support of her claim, the Petitioner highlights a new "quick and painless spaying/neutering technique" she developed during her work in Brazil. But, again, she has not explained how this technique offers broader implications for the veterinary medicine industry or nation as a whole. Although she claims her technique is faster and less painful than traditional procedures, she has not detailed how this would substantially impact sterilization procedures currently used in the industry or otherwise offer broader implications such that it would rise to the level of national importance. Notably, though she claims she developed this technique while in Brazil, the record does not establish that it has been widely disseminated or adopted by other veterinarians operating in the industry.

While we acknowledge the overall value of veterinarians and the services they provide, simply working in an important field is alone insufficient to establish the national importance of the proposed endeavor. The Petitioner must still demonstrate that her specific undertaking stands to have an impact

beyond the organizations and clients she would serve, or that her proposed work would otherwise have broader implications for the veterinary medicine industry or initiatives.

The record also does not contain sufficient evidence to support the positive economic effects the Petitioner claims would be realized by her proposed endeavor.[3] In her appellate brief, the Petitioner asserts her endeavor will have substantial positive economic effects, particularly in an economically depressed area, because her work will indirectly lead to a "positive economic change" in the depressed region for those who cannot afford animal sterilization services. Beyond these vague and unsubstantiated claims, however, she has not explained, much less quantified, what these positive economic benefits specifically would be, or elaborated how her particular endeavor would achieve such results. While any basic economic activity has the potential to positively affect the economy and societal welfare to some degree, the Petitioner has not offered a sufficiently direct connection between her proposed endeavor and any demonstrable economic or societal welfare effects to establish her proposed endeavor's national importance.

In terms of other claimed economic impacts, including job creation, the Petitioner contends her work as a veterinarian will help alleviate the shortage of veterinary professionals in the United States. However, she has not established how her future work stands to impact or significantly reduce the claimed national shortage. Moreover, we note that shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner's claim that she will train new veterinarians to perform surgeries and will educate veterinarians who are interested in operating low-cost veterinary clinics is also unavailing. In the same way that *Dhanasar* finds that a classroom teacher's proposed endeavor is not nationally important because it will not impact the field more broadly, we also conclude that the Petitioner has not shown how any future educational activities would sufficiently extend beyond the direct clients and individuals she trains to affect the region, nation, or field more broadly at level commensurate with national importance.

We have also reviewed the expert opinion letter written by Dr. [redacted] a licensed veterinarian, as well as other recommendation letters by former work colleagues and professional acquaintances. However, they provide little probative information to establish the national importance of the Petitioner's proposed endeavor. For example, while Dr. [redacted] focuses on the Petitioner's expertise, as well as the importance of veterinarians and the veterinary medicine industry generally, she does not specifically discuss the Petitioner's endeavor and why it, in particular, would be nationally important.

Similarly, while the other recommendation letters praise the Petitioner's expertise, personal attributes, and past work, particularly with regard to her probiotics research and veterinary dentistry skills, most of the letters do not reference or discuss the impact of the Petitioner's specific endeavor proposed here—working as a veterinarian sterilizing animals and promoting sterilization awareness education.

[3] On page 4 of her appellate brief, the Petitioner asserts that "[her] endeavor's focus is not based in economic effects" and "is relying entirely on the Societal Welfare." However, she later inconsistently states that having "substantial positive economic effects" is a "secondary focus" of her endeavor. While we acknowledge the Petitioner's claims that her endeavor's national importance is essentially based on societal welfare, for the sake of completeness, we also will briefly address her passing claims of potential economic impact.

Although a couple of the letters do discuss the potential benefits of animal sterilization generally, they do not explain how the Petitioner's specific work as a veterinarian in an individual clinic would produce such far-reaching results affecting the region, nation, or field more broadly. We further note that insofar as these letters and other evidence in the record highlight the Petitioner's expertise and record of success, these are considerations under *Dhanasar's* second prong.[4] When conducting an analysis under *Dhanasar's* first prong, we focus on the proposed endeavor itself.

The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375. Because the record does not establish the national importance of her proposed endeavor as required by *Dhanasar's* first prong, the Petitioner has not demonstrated eligibility for a national interest waiver. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining issues and arguments concerning whether she has established eligibility for the underlying EB-2 classification, as well as eligibility under the remaining two *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. at 25; *see also Matter of D-L-S-*, 28 I&N Dec. at 577 n.10.

## 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 that she is eligible for, or otherwise merits, a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.

[4] Much of the documentation the Petitioner has submitted focuses on her individual accomplishments and expertise when attesting to the national importance and substantial merit of the proposed endeavor. It is important to note that the Petitioner's accomplishments and expertise, including with regards to her probiotic product, are more relevant to *Dhanasar's* second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 889.