



**U.S. Citizenship
and Immigration
Services**

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

In Re: 33963103

Date: SEPT. 12, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an entrepreneur and 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 the Texas Service Center denied the petition, concluding the Petitioner qualified for EB-2 classification as an advanced degree professional, but 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 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 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS’ decision to grant or deny a national interest waiver is discretionary in nature).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

In her Definitive Statement, the Petitioner stated her intent to work as an entrepreneur in the field of dentistry by continuing to operate, develop and expand her clinic, [REDACTED], a limited liability company in Georgia. The Petitioner explained the clinic would provide comprehensive dental services and treatments to children and adults and research and develop new procedures to reduce treatment costs.

The Petitioner submitted evidence that she holds the equivalent of a U.S. master's degree in cosmetic dentistry. The Director determined the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether she qualifies for and merits a waiver of the job offer requirement in the national interest.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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 Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

The Director concluded, however, that the Petitioner did not establish the national importance of her proposed endeavor. 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. The Director determined the Petitioner did not establish that her proposed endeavor would sufficiently extend beyond her company and its clientele to impact the dentistry field or the U.S. economy more broadly at a level commensurate with national importance.

On appeal, the Petitioner claims the Director erred and her proposed endeavor "potentially impacts the ... entire healthcare system, alleviating a severe and growing staffing deficit in the field of oral and dental care in the US." The Petitioner asserts that the growing shortage of qualified dentists in the United States is an issue of national concern and the subject of national, state, and private-sector initiatives. The Petitioner further asserts her proposed endeavor has national importance because it would contribute to societal welfare by increasing access to dental healthcare. The Petitioner submitted articles on access to oral health care, designated health professional shortage areas statistics, an oral health equity agenda for the Biden Administration, potential Medicare dental expansion, dental workforce shortages and oral health disparities, the class politics of teeth, America's dental gap, lack

of sufficient dental care in America's heartland, the sorry state of dental care in the United States, dental disparities among low-income American adults, ensuring access to dental health care for children in Washington DC, dental inequality in America, Americans seeking dental care in Mexico, America's dental crisis, and the tragic results when dental care is out of reach.

These articles discuss the importance of dental care, disparities in oral health care in the United States, and dental workforce shortages, but they do not address the Beneficiary's specific proposed endeavor. Our assessment of national importance does not focus on the importance of issues affecting an industry or our nation in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles mention the Beneficiary and they do not demonstrate the potential prospective impact of her proposed endeavor. *See id.* (explaining we consider the proposed endeavor's potential prospective impact when assessing national importance).

The Beneficiary's business plan also discusses the importance of oral health care in the United States, but does not demonstrate the national importance of the Beneficiary's proposed endeavor. The Beneficiary's business plan states the dental industry revenue was estimated at \$137.6 billion in 2020. The business plan states the Beneficiary's company will initially operate with four employees and will eventually hire 25 professionals. The business plan also forecasts payment of \$364,000 in federal income tax and a total revenue of \$11.3 million. The eventual employment of 25 individuals does not indicate significant potential to employ United States workers. The business plan also does not specify how its financial forecasts were calculated, and the estimated income tax payments and revenue do not indicate the company would have substantial positive economic effects on an industry with a revenue of \$137.6 billion. *See id.* at 890 (discussing significant potential to employ United States workers and other substantial positive economic effects as indicative of national importance).

The Petitioner also submitted letters from patients, colleagues, and a professor who praise the Beneficiary's work and skills, but do not discuss her proposed endeavor. For example, P-C-G-S-² states the Beneficiary's "experience and professionalism will greatly enhance any organization she joins." R-L-G- praises the Beneficiary's treatment of him and states "her experience is something many clinics around the world are seeking to enhance their services." R-K- praises the Beneficiary's volunteer work with his organization and describes her as "a unique professional that is sought after by many companies in her field of work." R-K- commends the Beneficiary's treatment of him and expresses his belief that "her services will be of immense value to many patients throughout the United States." G-H- states the Beneficiary's "passion for dentistry will benefit her community." These letters attest to the Petitioner's professional experience, value, and accomplishments, but do not address her proposed endeavor and are more relevant to the second *Dhanasar* prong in which we consider whether a beneficiary is well positioned to advance the proposed endeavor.

The Petitioner also submitted a letter from L-S-, Director of the Dental Hygiene Program at [REDACTED] [REDACTED] in New York, expressing her opinion that the Beneficiary qualifies for a national interest waiver. L-S- asserts the Beneficiary will work in an area of national importance because there is a shortage of dentists in the United States and U.S. dental institutions operating or planning to operate in Brazil would benefit from the Beneficiary's expertise and skills. L-S- does not explain how the Beneficiary's operation of one dental company would address the shortage of dentists in the United

² We use initials to protect the privacy of the referenced individuals.

States on a level commensurate with national importance. The record also does not indicate that the Beneficiary plans to work with any U.S. dental institutions operating or planning to operate in Brazil. Consequently, L-S-'s letter does not establish that the Beneficiary's proposed endeavor has national importance. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it related to U.S. strategic interests).

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. Here, the record does not show that the Beneficiary's proposed endeavor stands to sufficiently extend beyond her company's clients to impact her field more broadly in a manner indicative of national importance. The Petitioner has not established that the Beneficiary's proposed endeavor has significant potential to employ United States workers, would have other substantial positive economic effects, or would otherwise impact her field more broadly on a level of national importance.

C. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of the Beneficiary's specific proposed endeavor and she does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of the Beneficiary's eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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

The Petitioner has not established the national importance of the Beneficiary's proposed endeavor and the Beneficiary does not meet the first prong of the *Dhanasar* analytical framework. Consequently, the Petitioner has not demonstrated that the Beneficiary is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.