



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

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

In Re: 21025163

Date: JULY 21, 2022

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a pediatric dentist, seeks second preference 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 EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but that 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 before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will remand the matter to the Director for the entry of a new decision.

The precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), states that, after a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services may, as a matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the noncitizen's proposed endeavor has both substantial merit and national importance; (2) that the noncitizen is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.<sup>1</sup> *Id.* at 888-91. In the matter before us, the extent of the Director's analysis of the first *Dhanasar* prong is as follows: "You submitted sufficient evidence to establish the work of an astrophysicist [*sic*] in the field of physics has substantial merit and that the proposed endeavor has national importance." The Director then concluded, however, that the record did not establish that the proposed endeavor in the field of pediatric dentistry satisfies either the second or third *Dhanasar* prongs.

As noted above, the proposed endeavor is in the field of pediatric dentistry, not in the field of physics or, more specifically, astrophysics. Because the Director did not address in the decision whether the

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<sup>1</sup> *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

proposed endeavor in the field of pediatric dentistry has substantial merit and national importance, the record is not ready for appellate review. *See Dhanasar*, 26 I&N Dec. at 888-91. Therefore, we withdraw the Director's decision and remand the matter to the Director to address whether the proposed endeavor in the field of pediatric dentistry has substantial merit and national importance. *See id.*

**ORDER:** The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.