



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 24511640

Date: JAN. 12, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a nurse, 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 Nebraska Service Center denied the petition, concluding the record did not establish the Petitioner's eligibility under the Dhanasar framework. The matter is now before us on appeal. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 discretion¹, grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

¹ See also *Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

II. ANALYSIS

The Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional. Therefore, the remaining issue is whether the Petitioner has established eligibility for a national interest waiver under the Dhanasar framework. While we do not discuss each piece of evidence, we have reviewed and considered each one.

The first prong, substantial merit and national importance, focuses on the specific endeavor 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 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 foreign national proposes to undertake." See *id.* at 889. In *Dhanasar*, we further 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 determined in *Dhanasar* 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. 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.

The Petitioner proposes to care for patients as a registered nurse and to teach academic courses as a nursing instructor. In addition, the Petitioner mentioned her prior academic research on the topic of nursing home patient falls with major injuries (FMI). However, the Petitioner has not explained the amount of time she intends to devote, if any, to conducting research, nor has she provided evidence specific to the FMI research she intends to carry out, or the capacity in which she will perform research prospectively. While her endeavor has substantial merit, the record does not establish by a preponderance of the evidence that the Petitioner's patient care and teaching would impact the field of nursing or the U.S. healthcare industry more broadly, as opposed to being limited to the specific patients, students, and workplaces she serves.

In order to illustrate the potential impact of her proposed endeavor, the Petitioner pointed to her success in the past and her qualifications as a nurse. We reviewed her statements and the letters of recommendation from her professional acquaintances. The authors of the letters praise the Petitioner's abilities as a student and nurse, and the personal attributes that make her an asset to the workplace and patients she serves. While the recommendation letters evidence the high regard the Petitioner's professional acquaintances have for the Petitioner and her work, none of the letters offers persuasive detail concerning the impact of the Petitioner's proposed endeavor or how such impact would extend beyond the patients, students, and employers she serves. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*. Furthermore, we note that the Petitioner's knowledge, skills, education, and experience are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue

under the first prong is whether the Petitioner has demonstrated the national importance of her proposed work.

The Petitioner contended that her proposed endeavor is nationally important due to the national shortage of nurses and nursing faculty as well as the exacerbations of these shortages as a result of the COVID-19 pandemic. We acknowledge these circumstances and understand how they place the Petitioner's nursing work in high demand. We further acknowledge the Petitioner's arguments that she can improve her patients' quality of life and provide essential training to future nurses. Nevertheless, the Petitioner must still offer sufficient evidence to address the deficiencies the Director identified concerning the endeavor's benefit to the Petitioner's employer, students, and patients but not the nation as a whole. Although the Petitioner asserts that her proposed endeavor extends beyond her patients to affect their family members, relatives, and community, she has not provided sufficient evidence to establish how the implications of her proposed endeavor rise to the level of national importance. The Petitioner has not explained, for instance, how many patients she will treat or how treating those patients will have a broader impact on the healthcare field. She has not suggested that her work will resolve the national nursing shortage, nor has she explained what specific impact her work would have on reducing such a shortage. Here, the Petitioner improperly relies upon the impact she makes for her individual workplace, patients, and students as sufficient to meet the first Dhanasar prong.

The record reflects that when the Petitioner originally filed her petition in March 2020, she proposed to continue nursing at [redacted] Nursing Homes and teaching courses at [redacted] College. In response to the Director's request for evidence (RFE), the Petitioner stated that she plans to continue nursing at [redacted] Memorial Hospital and teaching at [redacted] Community College. While the Petitioner need not have a job offer from a specific employer, the Petitioner's employment and location are relevant considerations, as information about the nature of the Petitioner's proposed endeavor is necessary for us to determine whether she satisfies the Dhanasar framework. It is not apparent from the record whether the Petitioner intends to remain in one location, which suggests that the impact of her work could change based on her employment. The Petitioner references the poverty and rural nature of the community in which she currently works as a reason why her endeavor has national importance; however, she has not provided evidence sufficient to demonstrate that the area in which she intends to carry out her proposed endeavor is economically depressed. Moreover, even if she had provided such evidence, the Petitioner would still need to establish how her proposed endeavor has national importance, for instance, by establishing the endeavor's significant potential to employ U.S. workers or other substantial positive economic effects.

On appeal, the Petitioner reemphasizes that the field of nursing is nationally important and that a severe nursing shortage exists. While the Petitioner's evidence establishes how her endeavor stands to impact the specific patients, students, and workplaces she serves, the evidence does not persuasively establish how her endeavor will have a broader impact. Accordingly, the Petitioner's proposed endeavor does not meet the first prong of the Dhanasar framework.

III. CONCLUSION

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the Dhanasar precedent decision, the Petitioner has not

demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the second and third prongs outlined in Dhanasar, therefore, would serve no meaningful purpose.

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. 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).

As the Petitioner has not met the requisite first prong of the Dhanasar analytical framework, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.