



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 25767349

Date: MAR. 08, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a pharmacist, 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 for a national interest waiver 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 earned a doctor of pharmacy degree from a U.S. university. Therefore, she qualifies for the EB-2 classification as an advanced degree professional. The remaining issue to be determined is whether she has established eligibility for a national interest waiver under the Dhanasar framework. While we do not discuss each piece of evidence individually, 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 whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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.*

The Petitioner stated that:

After finishing my postgraduate program in community pharmacy, I intend to work as a clinical pharmacist in an underserved population where I will utilize my skills in providing the adequate care my patients require. I would eventually like to own a pharmacy, basically serving the underserved population and as well dedicating myself in training the pharmacy students who are willing to take up th[is] challenging but rewarding path. . . .

In her response to the Director's request for evidence (RFE), the Petitioner provided documentation stating:

[The] Petitioner has taken a position as a clinical pharmacist in a rural area . . . She intends to continue to work in this setting for two to four years to gain adequate experience before starting an independent pharmacy in one of the counties in [redacted] New York, experiencing healthcare [desert]. With experiences from an independent pharmacy, petitioner will be better equipped on the day to day running of a pharmacy, not just as a pharmacist, but as an owner.

To support a finding that her endeavor has national importance, she explained, “pharmacists are especially needed when working with underserved patient populations as they tend to have more medications and medical conditions, have greater health needs in general but are challenged by psychosocial barriers, and are more vulnerable to medication safety and efficacy concerns.”

The Director issued an RFE, informing the Petitioner that she did not establish the potential perspective impact of her endeavor. The RFE explained that she had not established how her proposed endeavor activities would impact the field of pharmacy on a broader level, beyond her individual patients and

employers. Although her activities may add to a positive cumulative effect of the work of all pharmacists in the United States, the Director notified the Petitioner that she had not submitted sufficient evidence to establish her endeavor would rise to the level of national importance. Although the Petitioner responded to the RFE, the Director denied the petition, concluding the Petitioner had not established the national importance of her proposed endeavor. Specifically, the Director noted that the evidence did not demonstrate that her endeavor has significant potential to employ U.S. workers or has other substantial positive economic effects. We agree.

We reviewed the Petitioner's recommendation letters, including those she submits on appeal. Professional and academic colleagues praise the Petitioner's personal and professional qualities, as well as her performance in school and in her pharmacy residency program. However, 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 here is whether the specific endeavor has substantial merit and national importance under *Dhanasar's* first prong.

The authors also explain how the Petitioner's volunteerism affected their community and the results she achieved for the organizations for which she has worked. While [redacted] wrote about the Petitioner's volunteerism in their church ministry and how her service has improved the lives many children, he does not demonstrate any knowledge of the proposed endeavor. Although [redacted] emphasized the Petitioner's past research and stated that the Petitioner offered continuing education courses, he did not discuss whether this work impacted the pharmacy field. He did not, for example, explain how the pharmacy community received her research and courses or how her work affected other researchers or studies in the field. [redacted] explained that the Petitioner provided input for the analysis of a class of kidney drugs and that a national conference presented the results of the analysis. Nevertheless, [redacted] did not provide any information concerning the impact of the conference or of the specific input the Petitioner provided. [redacted] the Petitioner's academic research mentor, describes the Petitioner's various academic activities, noting that she offered other professionals a continuing education presentation on kidneys. However, he did not provide any information about how the Petitioner's academic activities impacted the field of pharmacy as a whole. While all the recommendation letters evidence the high regard the Petitioner's colleagues have for the Petitioner and her work, none of the letters offers persuasive detail concerning the Petitioner's proposed endeavor or how it would be nationally important.

Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters so as to determine whether they support the petitioner's eligibility. *Id.* *See also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). Because the letters do not discuss the proposed endeavor or its impact, they are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

We reviewed the Petitioner's business plans on a point of care testing (POCT) site and the company, [redacted] Pharmacy, that she intends to create in a healthcare desert in New York. The Petitioner

expects that her POCT will earn \$179,772 in profit by year five of operation. She does not provide sufficient details concerning the revenue projections of [redacted] Pharmacy; however, her business plan suggests that she will create about eight to ten direct jobs and expects to increase her initial customer base to 1,000 customers by year five. On appeal, she also explains that her endeavor will have an impact on health care expenditures; however, she does not explain what this means. For instance, it is not apparent whether she intends to save health care expenditures by charging customers less at her pharmacy or because people who have access to medicine may avoid larger illnesses that require more costly medical interventions. Regardless, the Petitioner has not explained how her work would save health care expenditures to such an extent that it would rise to the level of national importance. While we acknowledge her business plans, as well as that an endeavor may be limited in geographic scope but nonetheless have national importance, we nevertheless conclude the Petitioner has not sufficiently identified how her specific endeavor contributes to the economy. The evidence does not demonstrate that the benefits to the regional or national economy resulting from her endeavor would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Dhanasar* 26 I&N Dec. at 890.

We reviewed the articles and reports on rural health, community access to pharmacies, and how substantial clinical experience may be the equivalent of pharmacy practice residencies. While these articles demonstrate the importance of the pharmacy field, they do not mention the proposed endeavor or explain why it is nationally important. We agree that the pharmacy field is important; however, 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.

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. The record demonstrates the Petitioner’s hard work and commendable desire to contribute to the well-being of underserved communities and children. Although she may provide valuable services to those with whom she interacts, the record does not sufficiently demonstrate the broader impact of her proposed endeavor. Therefore, we conclude that the Petitioner has not established the national importance of her proposed endeavor.

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the remaining prongs outlined in *Dhanasar* would serve no meaningful purpose.

III. CONCLUSION

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.