



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

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

In Re: 26349433

Date: SEP. 22, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a dentist, seeks second preference immigrant classification as a member of the professions holding an advanced degree and as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 immigrant 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 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 Director did not make a finding on whether the Petitioner qualified for classification as a member of the professions holding an advanced degree or as an individual of exceptional ability. 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 (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:

¹ *See also Poursina v. USCIS*, No. 17-16579, 2019 WL 4051593 (Aug. 28, 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well positioned to advance the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

II. ANALYSIS

The Petitioner claimed eligibility for both types of EB-2 classification, as a member of the professions with an advanced degree and as an individual of exceptional ability. The Director’s decision focuses entirely on the issue of the national interest waiver and includes no determination as to whether the Petitioner qualifies for EB-2 classification. Because we nevertheless find that the record does not establish that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest, we reserve our opinion regarding whether the Petitioner satisfies second-preference eligibility criteria. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *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).

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national 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. *Dhanasar*, 26 I&N Dec. at 889. 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 initially stated that his proposed endeavor is to “advance his career as a Dentist by developing, implementing, advising and using his in-depth knowledge acquired through years of experience in the field” and “use his expertise as a means to complement and enhance Dentistry services in the U.S.” In response to the Director’s request for evidence (RFE), the Petitioner expanded his endeavor to include establishing his own dental clinic in Florida and submitted a business plan for his company. In the business plan, the Petitioner claimed that his company will provide “national-level” impact and benefits to the United States by transferring dentistry skills and knowledge, addressing deficit of dental services, contributing to the general public’s oral health, stimulating economic activities through direct and indirect job creation, and increasing tax revenues for the government. The Petitioner also explained that he is “preparing his diploma validation and . . . arranging documents and exams to achieve his U.S. license to practice dentistry.”

The Director concluded that the Petitioner’s proposed endeavor as a dentist has substantial merit but not national importance under the first prong of the *Dhanasar*’s analytical framework.² The Director largely based his analysis of national importance on the Petitioner’s business plan and its future projections. Specifically, the Director determined that the Petitioner incorrectly applied the Regional Input-Output Modeling System (RIMS II) multipliers to intentionally overstate the number of indirect

² The Director also found that the Petitioner did not meet the second or third prong of *Dhanasar*.

job creation. On appeal, the Petitioner contends that he correctly applied the RIMS II multipliers and did not intentionally misstate the projected number of indirect jobs.

The Petitioner's business plan utilizes two different methods to calculate the number of indirect job creation. First, the business plan indicates that the RIMS II multipliers for "Offices of Dentists" in Florida projects "a final-demand impact in employment, equivalent to 175 jobs in Year 5." Separately from these figures, the business plan also cites to "national job multipliers published by the Econom[ic] Policy Institute" (EPI) and concludes that "the total indirect jobs to be generated in the same period would reach 13 according to the multipliers provided by the EPI."

While the Director analyzed one specific method used by the Petitioner to estimate the number of indirect job creation or weighed its accuracy, we find it unnecessary to make a detailed finding on whether the Petitioner correctly used the RIMS II multipliers. As discussed below, we conclude that the Petitioner's business plan by itself does not establish that his proposed endeavor has significant potential to employ U.S. workers or has other substantial positive economic effects, as contemplated by *Dhanasar*. *Id.* at 890.

The Petitioner's business plan makes various financial projections but has not offered evidence to corroborate the contents. The business plan anticipates that the Petitioner's dental clinic will start with a staff of nine employees and a total payroll of \$720,000 in the first year. The plan further projects a sales increase from \$126,660 in year one to \$162,937 in year five and taxes paid to the U.S. government to increase from \$120,001 in year one to \$166,913 in year five. However, the record does not contain supporting documents to demonstrate the basis for the business plan's financial and staffing projections, or adequately explain how these projections will be realized. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Furthermore, the Petitioner did not establish that the business plan's financial and staffing projections are substantial enough to demonstrate national importance. The business plan does not project additional hires as the company's staffing will remain at a total of nine employees in year five, and the company's net profit will reach only \$83,155 by the fifth year. The Petitioner also did not address or explain the discrepancy between the EPI and RIMS II figures concerning creation of indirect jobs, as it would fluctuate from 13 jobs to 175 jobs, or show that these figures represent substantial job creation. While any basic economic activity has the potential to positively impact the economy, the record does not demonstrate how one dental clinic can generate such significant economic activity that rises to the level of "substantial positive economic effects." *Dhanasar*, 26 I&N Dec. at 890.

The Petitioner's business plan addresses his commitment to assisting "socioeconomically disadvantaged individuals" by cutting high dental costs and making dental services affordable. However, the Petitioner has not provided corroborating evidence, such as a specific physical location for his dental clinic or any evidence of his intention to purchase or lease office space at a particular location, to support that he will practice dentistry "in an economically depressed area." *Id.* While the Petitioner claims that his company "will stand out as a humanitarian organization that helps those in need," he has not provided any analysis of the endeavor's impact on the economically depressed areas of Florida.

In *Dhanasar*, we stated that “[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.” *Id.* The Petitioner submitted two reference letters from dental surgeons in Brazil who previously worked with him. The letters describe how the Petitioner has sought out technical alternatives to make canal treatments more affordable to low-income individuals in Brazil and developed a cost-saving care protocol for endodontic treatment. However, the record does not support that the Petitioner’s development or use of cost-saving protocols have significantly impacted the field of dentistry in a way that rises to national importance. The Petitioner himself has not claimed anywhere in his business plan or professional plan that he developed such cost-saving protocols.

The record includes an expert opinion letter from Professor [redacted] from the University of [redacted] School of Dental Medicine. Professor [redacted] generally describes the Petitioner’s background and the field of dentistry before concluding that the Petitioner is eligible for the national interest waiver. While Professor [redacted] states that the Petitioner “intends to open his own dental services clinic in the U.S., targeting those from low-income families who cannot normally afford good dental care,” she does not provide any other persuasive details regarding specific impact of the Petitioner’s proposed endeavor or his methodology in making the dental services more affordable. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony, but USCIS is ultimately responsible for making the final determination regarding an individual’s eligibility for the benefit sought. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm’r 1988).

The Petitioner also offered two affidavits, one from the municipality [redacted] in Brazil stating that in 2017 the Petitioner assisted with implementing new regulations for dental care to the community and another from a Brazilian company stating that the Petitioner gave an online lecture on “Oral Hygiene and Prevention of Oral Diseases” in November 2021 for one hour to their employees. These documents establish that the Petitioner is well-respected for his knowledge in dentistry but does not establish that his endeavor or his methodology will have a national or global implications in the field.

On appeal, the Petitioner cites to the Department of Health and Human Services (HHS) report which states that promoting oral health is “nationally important to the U.S.” and “has clear broader implications” to the American public. The report supports a determination that oral health is important to the overall health of the population and that the United States has many underserved communities that lack access to adequate dental care. However, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. 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 “the specific endeavor that the foreign national proposes to undertake.” *Dhanasar*, 26 I&N Dec. at 889. Here, the record does not establish that the work of one dentist or one dental clinic would have a nationally significant impact in this field.

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 find that the Petitioner has not established his proposed endeavor in this case will sufficiently extend beyond his dental clinic and clients to affect the region or nation more broadly. *Id.* at 893.

For these reasons, we conclude that the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework and thus, the Petitioner has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, further analysis of his eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose.

III. CONCLUSION

The Petitioner has not established the national importance of his proposed endeavor. Therefore, the Petitioner has not shown eligibility for the national interest waiver, and we will dismiss the appeal as a matter of discretion.

ORDER: The appeal is dismissed.