



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 35298204

Date: DEC. 20, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a dentist, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. See section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i).

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner did not establish she merits a discretionary waiver of the job offer requirement in the national interest. 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 for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as a

matter of discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

- 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

The Director determined that the Petitioner qualifies for the underlying EB-2 classification.² The issue on appeal is whether the Petitioner has established the national importance of her proposed endeavor, as required under the first prong of the Dhanasar framework. We conclude that she has not.³

The Petitioner currently works in Brazil as a dental surgeon for her dental clinic and as a professor for a laser dentistry school. For the laser dentistry school, she has been conducting laser therapy training in Brazil and coordinating the expansion of its laser certification centers to the United States. She proposes to continue working in the laser dentistry field in the United States as a researcher and consultant. For her proposed endeavor, she plans to develop techniques and advanced technologies to manage side effects from chemo and radio therapy cancer treatments. In particular, she plans to utilize antimicrobial photodynamic therapy (aPDT) to treat mucositis, a condition usually caused by cancer treatments that causes oral pain and complications hindering further oncology treatment. Through her aPDT research and advancements, she intends to “bridge the gap between clinical practice and scientific research” with a commitment to foster “collaboration and knowledge transfer between academic, industry, and healthcare professionals” for improved patient care. She also mentions that in addition to her clinical work, she is exploring establishing a business in the United States in the healthcare industry.

The first prong of the Dhanasar analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner 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.” Id.

Even though the Director determined that the Petitioner’s proposed endeavor has substantial merit, the Director found that the Petitioner did not demonstrate that her endeavor has the potential to have broader implications rising to the level of national importance. Upon de novo review, the Petitioner

¹ See *Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeal in concluding that USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

² To demonstrate she is an advanced degree professional, the Petitioner submitted her diploma, her academic transcript, an academic evaluation, and letters of employment. The record demonstrates her eligibility as an advanced degree professional having earned the foreign equivalent of a U.S. bachelor’s degree followed by more than five years of progressive experience in her specialty. See 8 C.F.R. § 204.5(k)(3).

³ While we may not discuss every document submitted, we have reviewed and considered each one.

has not established that her proposed endeavor satisfies the national importance element of *Dhanasar's* first prong, as discussed below.

On appeal, the Petitioner contends that the Director applied a standard of proof stricter than preponderance of the evidence, erroneously applied the law, and did not give due regard to the submitted evidence. To support her claims of national importance, the Petitioner specifically points to her professional plan and statement describing her credentials and the projected benefits she may offer the United States, as well as industry reports and articles showing the importance of laser dentistry and the shortage of professionals in her field.

The standard of proof in this proceeding is a preponderance of the evidence, meaning that a petitioner must show that what is claimed is “more likely than not” or “probably” true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.*; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, the Director properly analyzed the Petitioner's documentation and weighed the evidence to evaluate the Petitioner's eligibility by a preponderance of the evidence.

The Petitioner has not sufficiently detailed her specific proposed endeavor or provided evidence demonstrating its potential prospective impact is commensurate with national importance. The Petitioner's professional plan and statement indicates she plans to consult with equipment manufacturers and scientific research institutions on technological innovation projects to improve oral healthcare and disseminate knowledge to others which she claims would have economic and healthcare benefits to the United States. Mainly discussing in general terms her intent to advance technologies to better manage side effects from chemotherapy and radiotherapy treatments, the Petitioner does not explain or provide evidence showing how she intends to consult and research new advanced technologies or how her endeavor would be different from work typically performed through laser dentistry. Instead, the Petitioner provides broad, general assertions about the importance of her proposed work. For instance, she claims her work has the potential to provide economic savings to the healthcare system by reducing the need for intensive care and hospitalization; improve public health and trust in healthcare; combat antimicrobial resistance; foster innovation; and generate jobs.

The record includes letters of intent to invest with the Petitioner, however the letters speak in general terms about interest in investing in professional partnerships and research projects with the Petitioner to help oral health. Expressing admiration for the Petitioner's work and the importance of laser dentistry to healthcare, the letters, however, do not explain the specifics of the partnerships and research they intend to invest in with the Petitioner. In addition, the Petitioner references having published articles contributing to scientific research, but the record does not include evidence explaining her published articles to better understand her intended research and consulting work. Without more evidence detailing the specifics of her proposed consulting and research work, the record lacks evidence to determine whether her proposed endeavor has the claimed potential prospective impact on the laser dentistry field, the healthcare field, or the U.S. economy rising to the level of national importance.

In addition to her proposed clinical work, the Petitioner indicates that she is exploring starting a business which would have a substantial economic impact on the United States through its generation

of jobs and impact on the healthcare industry. However, the Petitioner does not provide further evidence about the specifics of her proposed business; instead, she explains the economic and healthcare benefits of using laser therapy and aPDT for oral mucositis in cancer patients.

The Petitioner's claims that her laser dentistry research and consulting activities stand to provide broader impact on her field and the nation have not been established through independent and objective evidence. The Petitioner's statements are not sufficient to demonstrate her claims and must be supported with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. at 376. Also, without sufficient documentary evidence that her proposed job duties as a laser dentistry researcher and consultant for medical equipment manufacturers and scientific research institutions or any other industry professionals would impact her field or the nation more broadly, rather than benefiting her prospective employers, clients, and business, the Petitioner has not demonstrated by a preponderance of the evidence that her proposed endeavor is of national importance.

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." See *Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, 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.* 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 stresses on appeal her 20 years of professional experience in dental prosthodontics and laser dentistry to show "[h]er skills and expertise have the potential to greatly benefit the U.S. healthcare system by improving patient care, reducing costs, and fostering innovation in cancer treatment and other healthcare areas." She claims her experience "will benefit any U.S. companies and individuals who need qualified professionals who possess expertise as a [c]onsultant in the field of [r]esearch/[d]entistry with a special focus on developing and executing comprehensive dental plans for oral rehabilitation, incorporating advanced techniques such as [aPDT] to combat resistant microorganisms."

However, the Petitioner's reliance on her professional experience to establish the national importance of her proposed endeavor is misplaced. Her professional experience relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* The issue here is whether the specific endeavor that the Petitioner proposes to undertake has national importance under *Dhanasar*'s first prong. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. See *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 the field more broadly. *Id.* at 893. Here, the record does not demonstrate that the Petitioner's proposed endeavor will impact the field of laser dentistry, the healthcare industry, or any other industries, as contemplated by *Dhanasar*: "[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 further contends her proposed endeavor has national importance because her laser dentistry research and consulting work would mitigate the shortage of laser dentistry professionals in the United States and provide economic and healthcare benefits. To support her claims, the Petitioner submitted industry reports, news articles, and scientific articles from others in her field. Such reports and articles relate to a shortage of dental professionals; the rising costs of dental healthcare; 2021 report about dentists in the United States; the varying demand for restorative dental care by patient age; the profession of maxillofacial prosthodontist; dental industry trends; prosthodontist jobs in the United States; improved technology to treat drug-resistant bacterial infections; aPDT treatment of aggressive periodontitis and resistant bacterial strains; antimicrobial photodynamic treatment for surface sanitation; aPDT and intravascular laser irradiation of blood in oncology; opportunities in dental research; and expected growth of global dental lasers market.

We recognize the importance of the laser dentistry therapy field and related careers; however, merely working in the laser dentistry field as a researcher and consultant is insufficient to establish the national importance of the proposed endeavor. Instead of focusing on the importance of an industry or field, or a need for professionals in a field, we focus on the “the specific endeavor that the foreign national proposes to undertake” and consider the endeavor’s “potential prospective impact.” *Id.* at 889. The issue here is whether the Petitioner has established how her proposed endeavor would affect national laser dentistry employment levels, the U.S. economy, or healthcare more broadly consistent with national importance. It is unclear from the evidence in the record that the work of a single healthcare professional in the field of dentistry, irrespective of that proposed endeavor’s success or failure, would have a significant impact on the field beyond its immediate sphere of influence. The evidence in the record does not highlight how the Petitioner’s work could have broader implications that address a scarcity of laser dentistry professionals. And if in fact these shortages can be addressed by adding additional qualified professionals like the Petitioner, they would be better addressed through the U.S. Department of Labor’s (DOL) labor certification process. The articles and reports submitted do not discuss her endeavor having the claimed broader impact to her field, or the claimed economic, healthcare, or social welfare impacts specifically attributable to her proposed endeavor.

In support of the Petitioner’s claims of national importance, the record also includes an opinion from an associate professor at the [redacted]. However, the opinion does not explain or focus on the Petitioner’s specific proposed endeavor and its potential prospective impact. Instead, the opinion indicates in broad terms that the Petitioner’s endeavor could help businesses by providing advice on the latest research and developments in the field; identifying new research opportunities, potential areas of growth, and new product development; and imparting guidance on research projects for data analysis, study design, and interpretation of results. In addition, the opinion mainly focuses on the Petitioner’s professional experience contributing to improving oral healthcare, the importance of oral health to general healthcare, and national initiatives and policies supporting oral health and professionals in medical career fields. The submission of letters from experts supporting a petition is not presumptive evidence of eligibility. *Matter of Caron Int’l*, 19 I&N Dec. 791, 795 (Comm’r. 1988); see also *Matter of D-R*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). As explained above, stating that the Petitioner’s professional experience would contribute to supporting an important industry is not sufficient to meet the “national importance” requirement under the Dhanasar framework.

While the Petitioner expresses her desire to contribute to the United States, her field of laser dentistry, and U.S. healthcare, she has not established with specific, probative evidence that her endeavor has the potential to have national, or even global, impact on her field or broader implications rising to a level of national importance. Statements and claims alone are not sufficient to demonstrate the national importance of her proposed endeavor. Assertions made without supporting documentation are of limited probative value and do not carry the weight to satisfy the Petitioner's burden of proof. See *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998). The Petitioner's claims depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between her proposed laser dentistry research and consulting work and the claimed results.

The Petitioner has not established the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, and therefore she has not demonstrated eligibility for a national interest waiver. We note that the Director determined that the Petitioner is well-positioned to advance the proposed endeavor under *Dhanasar's* second prong,⁴ but, on balance, it would not be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification under *Dhanasar's* third prong. Because the identified basis for denial is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve her appellate arguments and determination of her eligibility under the second and third prongs of *Dhanasar*. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

As the Petitioner has not established eligibility under the requisite first prong of the *Dhanasar* analytical framework, she is not eligible for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.

⁴ Although the Director determined the Petitioner met *Dhanasar's* second prong, the decision did not provide an explanation or analysis of the evidence for this finding.