



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 28963380

Date: DEC. 18, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a “dentist-scientist,” 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 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 Texas Service Center denied the petition, concluding that the Petitioner had not established that the Petitioner qualified for a discretionary waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal.

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 withdraw the Director’s decision and remand the matter for entry of a new decision consistent with the following analysis.

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. Because this classification requires that the individual’s services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

While neither the statute nor the pertinent regulations define the term “national interest,” we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver of the job offer, and thus the labor certification, to a petitioner classified in the EB-2 category if the petitioner demonstrates that (1) the noncitizen’s proposed endeavor has both substantial merit and national importance; (2) the

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).

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.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen 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.

The second prong shifts the focus from the proposed endeavor to the noncitizen. To determine whether the noncitizen is well positioned to advance the proposed endeavor, we consider factors including but not limited to the individual's education, skills, knowledge, and record of success in related or similar efforts. A model or plan for future activities, progress towards achieving the proposed endeavor, and the interest of potential customers, users, investors, or other relevant entities or individuals are also key considerations.

The third prong requires the petitioner to demonstrate that, on balance of applicable factors, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. USCIS may evaluate factors such as whether, in light of the nature of the noncitizen's qualification or the proposed endeavor, it would be impractical either for the noncitizen to secure a job offer or for the petitioner to obtain a labor certification; whether, in light of the nature of the noncitizen's qualification or the proposed endeavor, it would be impractical either for the noncitizen to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the noncitizen's contributions; and whether the national interest in the noncitizen's contributions is sufficiently urgent to warrant forgoing the labor certification process. Each of the factors considered must, taken together, indicate 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.

II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. The record demonstrates that the Petitioner earned a doctoral degree in dental surgery degree from [REDACTED] in Iran in 2017 and masters in craniofacial sciences from [REDACTED] in 2023, which have been evaluated to be the foreign equivalent of advanced degrees from a U.S. university. Accordingly, the remaining issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest.

A. Substantial Merit and National Importance of the Proposed Endeavor

The Petitioner intends to work in the United States as a dentist-scientist and plans to conduct research "to identify the unknown etiological factors in oral diseases in order to prevent oral diseases and pathological conditions to reduce the cost and burden of treating these conditions for both governments and individual patients." The Petitioner further explains that he intends "to continue his research on the unknown etiological factors in oral diseases." Specifically, he will develop preventive measures for oral diseases based on an improved understanding of the etiological factors driving the diseases

and publish original dentistry research in peer-reviewed journals.” In an updated statement, the Petitioner states that he has been admitted to the [redacted] international dentist program. He explains that he “intends to carry out research on promoting dental biomaterials with antibacterial properties as well as studying disease markers involved with dental caries/periodontal diseases in the saliva.”

In support of his petition, the Petitioner submitted letters of recommendation and independent advisory opinions from the field of dentistry, as well as evidence of his peer-reviewed publications and citations. The letter of recommendation from [redacted], vice dean of the faculty of dental medicine at [redacted] states that the Petitioner’s work “directly benefits pediatric dentistry by providing updates on the latest science and clinical modifications available in the area of COVID-19.” [redacted], associate professor at [redacted] in Iran also discusses the Petitioner’s research and contributions and asserts that the Petitioner’s project is of “the utmost importance to the health of individuals around the world, as it promotes the early discovery and prevention of certain oral conditions.”

The Petitioner also provided independent advisory opinions, written by:

- [redacted] associate professor and researcher in periodontology at [redacted] in Germany;
- [redacted], a board-certified orthodontist at [redacted] in Seattle, Washington;
- [redacted] adjunct clinical assistant professor at [redacted]; and
- [redacted] professor at [redacted] in Brazil.

Each of the advisory opinions further discusses the Petitioner’s investigation and research and stress the importance of the Petitioner’s work to oral health around the world. The opinions also highlight the several citations of the Petitioner’s work by other professionals in the field.

To demonstrate the potential national importance of his research, the Petitioner submitted evidence of its implications for the United States. This included information on oral health from the World Health Organization emphasizing the health burden of oral disease and untreated dental caries. The Petitioner also provided information from the Centers for Disease Control and Prevention on dental health and dental sealants as well additional articles and journals related to the Petitioner’s work.

The Director issued a request for evidence (RFE), stating that the Petitioner did not provide “sufficient evidence to establish a clear proposed endeavor.” The Director noted that the record also did not establish that the Petitioner was well-positioned to advance the proposed endeavor or that it would be beneficial to the United States to waive the requirement of a job offer.

In response to the RFE, the Petitioner submitted an updated statement and additional evidence of his publications and citations to his work. He submitted multiple scholarly articles citing his research and discussing the importance of his research to the field.

In their denial, the Director concluded that the evidence demonstrated that the Petitioner met the second prong of the Dhanasar framework, in that he was well positioned to advance the proposed endeavor.

The Director concluded however that the evidence did not establish that the Petitioner met the first and third prongs – that the proposed endeavor had national importance, and 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.

On appeal, the Petitioner contends that the Director “did not consider all of the evidence submitted” with the initial petition and in response to the RFE. We agree. Upon review of the record, we conclude that the proposed endeavor has substantial merit and national importance. The Petitioner has established eligibility under the first prong of the Dhanasar framework.

B. Well Positioned to Advance the Proposed Endeavor

The Director determined that the Petitioner provided sufficient evidence to meet the second prong, and we agree. Our review of the record shows by a preponderance of the evidence that the Petitioner is well positioned to advance his proposed endeavor.

C. Whether on Balance a Waiver is Beneficial

While the Director determined that the Petitioner’s proposed endeavor meets the second prong of the Dhanasar analytical framework, the Director determined that “the evidence submitted does not support the petitioner’s statements 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.” Since we have concluded that the Petitioner satisfies the Dhanasar framework’s first prong, we are remanding this matter so that the Director can conduct a first-line adjudication of the record under that framework’s third prong.

On remand, the Director should consider and evaluate the Petitioner’s claims regarding this prong, including those made on appeal, to determine whether, on balance, a waiver of the job offer requirement, and thus of a labor certification, would be in the U.S. national interest. Upon a complete review of the entire record, the Director should provide a full and complete analysis of whether, on balance, it would be in the national interest to grant a waiver of the labor certification. The Director should consider factors such as, whether a labor certification would be impractical, whether the U.S. would benefit from the Petitioner’s proposed endeavor, whether the national interest in the Petitioner’s proposed endeavor is sufficiently urgent, and whether the proposed endeavor has the potential for job creation.

III. CONCLUSION

We are remanding the petition for the Director to review the entire record including evidence submitted in response to the RFE and consider whether the Petitioner has established the third prong of the Dhanasar analytical framework, and whether a waiver of the requirements of a job offer, and thus a labor certification, would be in the national interest.

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