



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

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

In Re: 26581616

Date: JUN. 6, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, who describes himself as an entrepreneur who intends to also work as a dental assistant, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. *See* 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). 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.

The Director of the Texas Service Center denied the petition, concluding that, while the Petitioner qualifies for classification as a member of the professions holding an advanced degree, 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 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 under section 203(b)(2) of the Act.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, 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 USCIS may, as matter of discretion<sup>1</sup>, 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.<sup>2</sup>

## II. ANALYSIS

The Director determined that the Petitioner qualifies as a member of the professions holding an advanced degree.<sup>3</sup> Therefore, the issue to be addressed is whether the Petitioner has established that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest. In denying the petition, the Director determined that, although the Petitioner's proposed endeavor has substantial merit, the record did not establish that the endeavor has national importance. The Director concluded that the Petitioner did not demonstrate that he meets the first prong of the *Dhanasar* analytical framework.

The first prong, substantial merit and national importance, focuses on the specific endeavor that 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. *Dhanasar*, 26 I&N Dec. at 889.

On appeal, the Petitioner submits evidence previously included in the record. The Petitioner also submits documentation related to his qualifications to work as a dental assistant in the United States and letters from universities in New York and Florida concerning his approval for the first phase of their selection process for dental residencies. The Petitioner submits a brief in which he asserts that the record establishes both the substantial merit and national importance of his proposed endeavor. He reasserts the following:

As stated, my intention is to work in the Dental Assistants field, focusing on offering workforce in such field and on Training/Qualification for Dental Assistants. My entrepreneurial action has all the requirements for me to benefit as a member of the National Interest Waiver.

For the reasons discussed below, we agree with the Director's conclusion that the Petitioner has not demonstrated the national importance of his proposed endeavor under the first prong to the *Dhanasar* analytical framework. We disagree with the Director's conclusion that the Petitioner's proposed endeavor has substantial merit for reasons also discussed below.

---

<sup>1</sup> 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).

<sup>2</sup> See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

<sup>3</sup> The Petitioner established that he holds the foreign equivalent of a U.S. baccalaureate in odontology from a university in Brazil, as well as more than five years of progressive experience in the specialty.

## A. Substantial Merit

The record initially included a business plan that discussed the occupation of dentistry in the United States, providing data from the American Dental Association and the Kaiser Family Foundation concerning the industry, healthcare costs, periodontal disease, and concentrations of dentists throughout the country. Neither the business plan nor the remaining evidence of record identified the Petitioner's proposed endeavor. The Director requested evidence to clarify the Petitioner's proposed endeavor and to demonstrate its substantial merit and national importance. The Petitioner's response included, among other evidentiary items, a letter in which he explained the following (quoted as written):

Several recent publications have discussed the current state of oral health and the dental profession in the United States, future challenges, and the role of dental support organizations (DSOs) in them.... [L]ike physicians aligned with managed service organizations (MSOs), dentists supported by DSOs can focus on treating their patients and providing affordable care, particularly for working-age adults, the youth, and the poor. MSOs and DSOs allow physicians and dentists, respectively, to be more attentive to patient care and enable business professionals to assist in "non-clinical" administration of the practice. By spending their time more efficiently, dentists who hire DSOs can offer dental services at lower prices, thus increasing the accessibility of dental care in broader segments of the communities in which they practice....

The DSO and licensed dentists are experts in their respective roles, and together they create a highly successful dental organization that can grow to a wide range of sizes across the country. In this way, the USA would benefit significantly from the expertise and skills of an experienced Dental Assistant, including the fact that I have previous training as a Dentist in Brazil, which gives me a solid knowledge of the practices and needs of the Dentist....

I intend to establish a company (Cooperative) in the field of offering workforce, qualifications, and training for Dental Assistants with the objective of assisting in preparing professionals to work in the American market. The company's performance will be directed to attend the Dentist's Office, Foreign Dentists, and Foreign Dental Assistants. They will benefit, among others, from the specialized labor to be qualified and offered by the Petitioner's company. The company will be located in [redacted] and intends to offer workforce supply services, qualifications, and training in the field of Dental Assistants.

The Director determined that, although the proposed endeavor remained "vague," it appeared "that the activities of the proposed endeavor will have substantial merit." We disagree with this conclusion. The materials provided by the Petitioner discuss the benefits of oral health and the projected growth of the dental industry in the United States; the record does not include documentation that defines the Petitioner's endeavor beyond the creation of a limited liability company that intends to sell unspecified support in the form of "supplies" and "training" to dental assistants from its location in [redacted]

Florida.<sup>4</sup> Based on the evidence of record, we cannot determine the substantial merit of the Petitioner's proposed endeavor. We therefore withdraw the Director's finding to the contrary. We conclude that the Petitioner has not established that his proposed endeavor has substantial merit.

#### B. National Importance.

The Director concluded that the record did not establish the national importance of the Petitioner's proposed endeavor. He acknowledged the Petitioner's submission of articles and reports that focus generally on dentistry or the healthcare industry to demonstrate the importance of the field; this material, however, does not demonstrate the importance of a particular endeavor proposed by the Petitioner. The Director explained that, in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the foreign national proposes to undertake." See *Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" and endeavors that have broader implications, such as "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90. The Director further explained that, to evaluate whether a petitioner's proposed endeavor satisfies the national importance requirement, we must look to evidence documenting the "potential prospective impact" of the work of the proposed endeavor. *Id.* at 889.

After review of the record, including a new business plan submitted in response to the Director's request for evidence, the Director determined that the record did not contain objective evidence to support the Petitioner's assertions. He determined that the record does not demonstrate the endeavor's national importance. The Director explained that the revenue and job projections in the new business plan were not supported by objective evidence; these projections resulted from calculations using an employment multiplier that was not identified or explained in the new business plan. The Director also noted that the business plan did not detail the salaries of potential workers or whether their employment would be full- or part-time. Further, the Director pointed out that the revenue projections appeared unrealistic for a segment of dental workers who rely on their employers for supplies and whose salaries would not comport with the Petitioner's intended charges for training and supplies. The Director concluded that the evidence did not show that the proposed endeavor would impact the industry more broadly or sufficiently extend beyond the company and its clients to show national or global implications.

On appeal, the Petitioner submits a brief reasserting that the record demonstrates that his proposed endeavor is of national importance. He states the following (quoted as written):

Through is entrepreneurial action, my business will be generating jobs for specialized professionals, training new workers for the Dental Assistants market and driving the

---

<sup>4</sup> The Petitioner must support his assertions with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. at 376.

economy of the state of Florida. My company will offer a portfolio of services and specialized labor....

I reaffirm that my intention at the moment is to act as a Dental Assistant and collaborate in the transmission of the knowledge I have obtained throughout my career to other professionals, either in my own enterprise or in specific courses and training in the field. Even though I manage to achieve my goal as an entrepreneur, I will continue my studies in search of exams and certifications that are essential for my work in the U.S.

Taking into account my professional experience and vast expertise in Dentistry, I continue to qualify my self to work even better as a Dentist, focusing on the segments of: implant dentistry; minor oral surgery; implant prosthesis; and orofacial harmonization. Recently, on 13/09/2021, I was approved by the American Board of General Dentistry, having applied to a number of Dentistry courses in Universities, currently waiting for an interview for approval. Then, on 12/20/2022 and 12/21/2022, I received two approval letters for the first phase of the selection process for dental [residencies]....

Upon review of the record, we agree with the Director's decision concerning the national importance of the Petitioner's proposed endeavor. Here, the Petitioner's brief reiterates his intention to develop a company that sells training and supply products to dental assistants, emphasizing that his enterprise will serve areas of critical economic concern in Florida and have an economic impact because it will be "part of a robust production chain." The record does not include documentation to support these assertions. *See Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner has not provided data or studies establishing how his proposed endeavor will impact economic areas of concern in Florida or elsewhere in the United States. He has not provided evidence of similar successful business models or other comparable examples to demonstrate the potential broader implications of his proposal, nor has he provided sufficient documentation to demonstrate that his proposal has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the United States. *See Dhanasar*, 26 I&N Dec. at 890. In addition, as explained previously—and as acknowledged by the Director—the Petitioner's proposed endeavor is vague. On appeal, the Petitioner's proposed endeavor is further clouded by the fact that he states he intends to participate in a dental residency at a university in the United States; it is not clear whether the Petitioner intends to embark on an entrepreneurial venture or commit to the requirements of university residency. Because the evidence of record does not allow for a full evaluation of the Petitioner's proposed endeavor, we cannot determine whether the endeavor has national importance. We conclude that the Petitioner has not established the national importance of his 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, nor does it establish that the endeavor has substantial merit. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified basis for dismissal is 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); *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).

### III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We conclude that he has not established he is eligible for or otherwise warrants a national interest waiver. The petition will remain denied.

**ORDER:** The appeal is dismissed.