



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

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

In Re: 28446854

Date: DEC. 13, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a psychoanalyst, seeks classification as a member of the professions holding an advanced degree or, in the alternative, as an individual of exceptional ability in the sciences, arts or business. *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 the Petitioner qualified for classification as a member of the professions holding an advanced degree but did not establish 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. Section 203(b)(2)(B)(i) 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 discretion¹, 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.²

II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established eligibility for a national interest waiver under the *Dhanasar* framework. While we do not discuss each piece of evidence, we have reviewed and considered each one.

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. The relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "specific endeavor that the foreign national proposes to undertake." *Id.* at 889. In *Dhanasar*, we further noted that "we look for the 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 determined in *Dhanasar* 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. 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 stated that she has 14 years of professional experience providing clinical psychoanalysis therapy for patients, publishing material in the field and developing programs, and conducting specialized research and intervention therapy in school bullying and depression. The Petitioner's proposed endeavor is to continue her work in the field of psychoanalysis and establish a multidisciplinary clinic that would provide a comprehensive psychological therapy network with a focus on bullying prevention and recovery. The Petitioner will also give lectures and coach students, teachers, and parents on the definition of school bullying, best practices in bullying prevention, and appropriate response and treatment. She will also conduct group research in schools and set up counseling programs for the victims. The Petitioner stated she intends to combat the nationwide problem of bullying by applying her expertise and experience in psychoanalysis.

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).

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

In response to the Director's request for evidence (RFE), the Petitioner explained that bullying affects schools and society and is a matter of national importance. The Petitioner further outlined her proposed endeavor to include the following activities as:

- Provide professional psychoanalysis therapy services, including school counseling, and antibullying projects.
- Give access to therapy to people that cannot afford it.
- Promote self-awareness in children and teenagers.
- Help children, teenagers, and their families overcome the problems that originate from bullying at schools or from other extracurricular activities.
- Expand her studies in emotional development to continue finding better solutions for effective therapy against bullying in the U.S.
- Diagnose emotional disturbances in children and teenagers to quickly work on those emotions and environments to help them neutralize the anxiety and fear that come from being bullied.
- Continue her research on bullying to reach out to more people in the U.S. that can relate to this problem and continue finding solutions to prevent it and eradicate it.
- Teach children the importance of dealing with bullying at school to make it a habit to fight it and help other kids that are going through it.
- Work with families and school faculty/staff to develop effective strategies and programs that protect the students from bullying at school and contribute to weakening bullying behavior in America.
- Give lectures to groups of young people and their parents to create a strong community that can rely on her experience and advice to strengthen the fight against bullying.
- Work one-on-one with her patients to help them find the best solutions to their problems and encourage them not to give up on their goals and life.
- Present effective anti-bullying projects in schools and communities across the U.S. to help decrease the alarming numbers of bullying in schools.

While the Director determined that the proposed endeavor has substantial merit, he concluded that the record did not establish that it has national importance.

On appeal, the Petitioner asserts that bullying is a topic of national concern that affects schools and society, and that school shootings can be "traced back to a teenager who had a mental breakdown following unmitigated instances of bullying." The Petitioner contends her work will help her patients and can "deter a mental breakdown which gone untreated would result in the loss of innocent lives." The Petitioner also states she will help patients and their parents, and those individuals will share their knowledge to other parents. On appeal, the Petitioner further states that as a psychoanalyst she would like to "contribute to the U.S. by helping schools join forces with teachers, principals, and employees in the fight against bullying."

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 specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. The Petitioner must demonstrate the national importance of her specific, proposed endeavor of providing her particular

counseling services through her business rather than the importance of psychologists or the industry or field. 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.

In addition, the Petitioner repeatedly emphasizes her experience, skills, and knowledge. The Petitioner’s experience and abilities in her field relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the specific endeavor she proposes to undertake has national importance under *Dhanasar*’s first prong.

Moreover, 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. The Petitioner did not offer specific information and evidence to corroborate her assertions that the prospective impact of working as a psychoanalyst in a clinic rises to the level of national importance. In *Dhanasar*, we determined 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. Here, the record does not show through supporting documentation how her specific services stand to sufficiently extend beyond her prospective clients or patients, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance. Although on appeal she emphasizes she will assist her patients that could eventually help thwart a mental breakdown and a possible school shooting or harm to others, she did not provide sufficient evidence to corroborate this claim. The Petitioner provided very general notions of national impacts but did not provide specific information on how her clinic that services clients in a certain area can actually have a national impact. The Petitioner also stated she will work with schools to deal with issues of bullying, but she did not provide sufficient information on how she will work as a psychoanalyst and run a clinic while also working at schools throughout the country. The Petitioner has not provided sufficient evidence to establish how the implications of her proposed endeavor to provide counseling services for her clients in her clinic rises to the level of national importance.

Further, the Petitioner has not demonstrated that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation directly attributable to her future work operating a clinic, the record does not show that benefits to the regional or national economy resulting from the Petitioner’s endeavor would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. Accordingly, the Petitioner’s proposed endeavor does not meet the first prong of the *Dhanasar* framework.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We acknowledge the Petitioner’s arguments on appeal as to the second and third prongs of *Dhanasar* but, having found that the evidence does not establish the Petitioner’s eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prongs. *See INS v.*

Bagamasbad, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make “purely advisory findings” on issues that are unnecessary to the ultimate decision); *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 the applicant is otherwise ineligible).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not established her eligibility for a national interest waiver. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.