U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37385865

Date: APR. 7, 2025

Appeal of Vermont Service Center Decision

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

The Petitioner 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 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Vermont Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she 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 pursuant to 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 qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (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 discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

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

- 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 found that the Petitioner qualifies as a member of the professions holding an advanced degree. The sole issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we conclude the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

A. Substantial Merit and National Importance of the Proposed Endeavor

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* We agree with the Director's determination that the Petitioner's endeavor has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We withdraw the Director's determination that the Petitioner did not establish the national importance of her proposed endeavor under *Dhanasar's* first prong. The Petitioner indicated that her proposed endeavor is to continue working as a computer vision python engineer for her current employer and focus her research on "developing and integrating advanced artificial intelligence techniques into system networks, computer vision, and energy systems" to "solve important problems in a range of fields, such as computer vision, energy management, medical image analysis, and anomaly and fault detection in industrial systems." The Petitioner further explained that her work will concentrate on "increasing fault detection in industrial systems, optimizing energy consumption predictions, and enhancing the diagnosis of life-threatening diseases." Additionally, the Petitioner stated that her proposed endeavor will attend "to pressing national concerns in the fields of healthcare, energy sustainability, industrial efficiency, and retail."

The record includes letters of support discussing how the Petitioner's proposed work stands to "advance medical diagnostics, enhance energy efficiency, and reduce industrial energy wastage." For instance, Dr. S-C-,[2] assistant professor of data science at [redacted] University [redacted] discusses how the Petitioner is "actively progressing artificial intelligence software for predictive models in the retail industry" and making "noteworthy contributions to the energy sector by harnessing state-of-the-art artificial methodologies and algorithms." As another example, Dr. M-M-, director of [redacted] at [redacted] explains that the Petitioner has "revolutionized energy demand forecasting by integrating advanced computational methods with energy and resource management" and "[h]er work has also informed researchers of other fields in improving system performance, including that of healthcare, finance, and computer

[2] Initials are used to protect the privacy of the individual.

vision." Additionally, the Petitioner submitted documentation indicating that the benefit of her proposed endeavor offers broader implications as the results are disseminated to others in the field through scholarly journals. As the Petitioner has demonstrated both the substantial merit and national importance of her proposed research, she has established that she meets the first prong of the *Dhanasar* framework.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Dhanasar*, 26 I&N Dec. at 890. To determine whether they are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* For the reasons discussed below, the record supports the Director's determination that the evidence is insufficient to demonstrate that the Petitioner is well positioned to advance her proposed research under *Dhanasar*'s second prong.

As it relates to the Petitioner's education, while her Master of Science in Electrical and Computer Engineering degree from [redacted] University[3] renders her eligible for the underlying EB-2 visa classification, she has not shown that her academic accomplishments by themselves are sufficient to demonstrate that she is well positioned to advance her proposed endeavor.[4] In *Dhanasar*, the record established that the petitioner held multiple graduate degrees including "two master of science degrees, in mechanical engineering and applied physics, as well as a Ph.D. in engineering." *Dhanasar*, 26 I&N Dec. at 891. Although the Petitioner's advanced degree in a STEM field is an especially positive factor, it is not a sufficient basis to determine that he is well positioned to advance the proposed endeavor. *See 6 USCIS Policy Manual* F.5(D)(2), https://www.uscis .gov/policymanual. We look to a variety of factors in determining whether a petitioner is well positioned to advance her proposed endeavor and education is merely one factor among many that may contribute to such a finding.

In letters supporting the petition, several references discussed the Petitioner's research projects.[5] For example, Dr. S-C-, referenced above, described projects the Petitioner had undertaken and stated that the Petitioner's work "advanced the parameters of distribution systems, identified system anomalies, and enhanced voltage stability." Dr. S-C- does not offer specific examples indicating that the Petitioner's work has affected the field or otherwise represents a record of success or progress rendering her well positioned to advance the proposed endeavor.

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[3] Although the Petitioner details in her curriculum vitae that she obtained a second master's degree, in Information Technology Management, from [redacted], in 2023, the record does not contain documentation in support. Nor does the Form ETA-9089-Appendix A, Foreign Worker Information, signed by the Petitioner in November 2023, reference the claimed degree from [redacted]

[4] "USCIS considers an advanced degree, particularly a Doctor of Philosophy (Ph.D.), in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology or other STEM area important to U.S. competitive or national security, an especially positive factor to be considered along with other evidence for purposes of the assessment under the second prong." *See generally 6 USCIS Policy Manual*, F.5(D)(2), https://www.uscis.gov/policy-manual. A degree in and of itself, however, is not the only factor we consider in determining if a person is well positioned to advance their proposed endeavor. *Id.*

[5] While we discuss a sampling of these letters, we have reviewed and considered each one.

As another example, while Dr. M-M-, a senior researcher at [redacted] stated that the impact of the Petitioner's work on improvements to the devices and systems that enable medical image analysis "demonstrates the widespread impact of [the Petitioner's] insights on DRNNs [deep recurrent neutral networks] and energy demand prediction," he does not sufficiently establish when[6] or how the Petitioner's work has been implemented, utilized, or applauded by others in the field.

Additionally, while the Petitioner contends that she intends to pursue her proposed endeavor as a computer vison python engineer for her current employer,[7] the record does not contain supporting documentation from her employer identifying the specific research projects she intends to pursue on the organization's behalf, and what her specific role will be within the company's research and development. Without sufficient evidence demonstrating the means or financial support to undertake her proposed research in the United States, the Petitioner has not shown that her plan for future activities renders her well positioned to advance her proposed endeavor.

As it relates to the citations of the Petitioner's work, the Petitioner provided her Google Scholar profile from December 22, 2023. The information from Google Scholar indicates that her three highest cited articles, entitled [redacted]" (2023), "[redacted]" (2015), and "[redacted]" (2018) each received 13, 11, and 3 citation(s), respectively.[1] The Petitioner does not specify how many citations for each of these individual articles were self-citations by her or her coauthors. In response to the Director's RFE, the Petitioner provided a July 26, 2024 Google Scholar profile listing additional citations her published articles received that post-date the filing of the December 22, 2023 Form I-140 petition. These later citations provided in response to the RFE do not establish her eligibility at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12).

The Petitioner has not established that a notable number of the citing authors placed unusual reliance on her work, resulting in a significant impact within the field. Citation frequency which is quantitative in nature does not reveal the reasons for citations, which involve a qualitative analysis. In other words, a high citation number might show that others in the field have noticed the Petitioner's work, but it does not confirm that her work has impacted or advanced the field of endeavor in such a way that renders her well position. Researchers throughout a given field may cite other published works without the cited work being notably influential or serving as a foundational basis for their own work. Even though others within the Petitioner's field may have relied on her research findings within their own work, this is not sufficient to demonstrate that she had made contributions of major significance within the field. The Petitioner has not established that the number of citations received by her published articles reflect a level of interest in her work from relevant parties sufficient to meet *Dhanasar*'s second prong. Further, while we listed Dr. [redacted]'s "publications and other published materials that cite his work" among

[6] Petitioners must establish eligibility for the requested benefit at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12). Notably, Dr. M-M- referenced a [redacted] University and [redacted] University "2024 preprint" which post-dates the filing of the Petitioner's December 2023 Form I-140 petition.

[7] As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for her to have a job offer from a specific employer. However, we will consider information about her current employment to illustrate the capacity in which she intends to work in order to determine whether her proposed endeavor meets the requirements of the *Dhanasar* framework.

the documents he presented, our determination that he was well positioned under the second prong was not based on his citation record. Rather, in our precedent decision, we found "[t]he petitioner's education, expertise, and experience in his field, the significance of his role in research projects, as well as the sustained interest of and funding from government entities such as NASA and AFRL, position him well to continue to advance his proposed endeavor of hypersonic technology research." *Dhanasar*, 26 I&N Dec. at 893.

The record demonstrates the Petitioner has conducted and published research, but she has not shown that this work renders her well positioned to advance her proposed research. While we recognize that research must add information to the pool of knowledge in some way in order to be accepted for publication, presentation, funding, or academic credit, not every individual who has performed original research will be found to be well positioned to advance their proposed endeavor. Rather, we examine the factors set forth in *Dhanasar* to determine whether, for instance, the individual's progress towards achieving the goals of the proposed research, record of success in similar efforts, or generation of interest among relevant parties supports such a finding. *Dhanasar*, 26 I&N Dec. at 890. The Petitioner, however, has not sufficiently demonstrated her work has served as an impetus for progress in the field or it has generated substantial positive discourse in academic community. Nor does the evidence otherwise show her work constitutes a record of success or progress in advancing her research. As the Petitioner has not demonstrated that she is well positioned to advance her proposed research endeavor, she has not established that she satisfies the second prong of the *Dhanasar* framework.

C. Whether on Balance a Waiver is Beneficial

As explained above, the third prong requires the petitioner to demonstrate 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. Because the Petitioner has not established eligibility under the second prong of the *Dhanasar* framework, we decline to reach and hereby reserve remaining arguments concerning eligibility under the third prong. *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 record is insufficient to demonstrate the Petitioner is well positioned to advance her proposed endeavor, she has not established she satisfies the second prong of the *Dhanasar* framework. As such, analysis of her eligibility under the third prong outlined in *Dhanasar*, therefore, would serve no meaningful purpose. Accordingly, the Petitioner has not shown eligibility for a national interest waiver.

ORDER: The appeal is dismissed.