U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37957784

Date: JUL. 07, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a biomechanical engineer and researcher, 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).

USCIS denied the petition, concluding that the Petitioner did not establish eligibility for a national interest waiver. 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*. If a doctoral degree is customarily required for the specialty, the non-citizen must possess a U.S. doctorate or a foreign equivalent degree. *Id*.

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;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Petitioner's proposed endeavor is to "develop advanced techniques to characterize biomechanical properties of cells and tissues for diagnosing and creating therapeutic products for serious diseases such as cancer and diabetes and producing new biomaterials and artificial organs with enhanced integration with the human body." The Director determined that the Petitioner established his eligibility for the EB-2 classification as a member of the professions holding an advanced degree.[2] In addition, the Director concluded that the Petitioner's proposed endeavor was of substantial merit. However, the Director ultimately concluded that the Petitioner did not establish his proposed endeavor was of national importance, that he was well positioned to advance the proposed endeavor, or 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 properly analyze the evidence under the *Dhanasar* framework. Upon review, we conclude the record does not establish the Petitioner's proposed endeavor is of national importance and therefore he is not eligible for a national interest waiver as a matter of discretion.

A. The Record Establishes the Proposed Endeavor Has Substantial Merit

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Petitioner contends that his proposed endeavor falls within the critical and emerging technology (CET) areas listed by the National Science and Technology Council (NSTC) as his proposed endeavor "has applications in the advancement of engineering of multicellular systems, and biomanufacturing and bioprocessing technologies." He contends that his work will provide advances in the field of diabetes treatment and that his developments could also lead to advancements in cancer treatment. The record contains the Petitioner's proposed endeavor statement, information about cell therapy biomanufacturing, and articles about the rates and the national impact of diabetes and cancer in the United States. We conclude that the record establishes the substantial merit of the Petitioner's proposed endeavor.

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[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).

[2] The Petitioner submitted evidence that he holds the degree of doctor of philosophy in mechanical and aerospace engineering from [redacted]. The Director determined that the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree and we agree.

B. The Record Does Not Establish the Proposed Endeavor Has National Importance

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. As stated above, the Petitioner's proposed endeavor is to, "develop advanced techniques to characterize biomechanical properties of cells and tissues for diagnosing and creating therapeutic products for serious diseases such as cancer and diabetes and producing new biomaterials and artificial organs with enhanced integration with the human body." His work will focus on research in the field of cell therapy for treating type-1 diabetes and he is currently employed as a translational engineering scientist on the type 1 diabetes translational engineering team for [redacted].

The Petitioner contends that the Director's national importance analysis focuses on his employment, rather than his endeavor and that his employment is irrelevant stating that "employment concerns have no bearing whatsoever on the national importance of [the Petitioner's] proposed endeavor." Although the Petitioner contends his proposed endeavor is distinct from his employment, we disagree as the Petitioner states that the "position with [redacted] serves as [his] chief opportunity to pursue [his] proposed endeavor. . . ." The Petitioner further states in his response to the request for evidence (RFE) that he intends to continue his research through his employment as a translational engineering scientist for [redacted]. The Petitioner supports this assertion with a proposed endeavor statement which details the research he performs with [redacted] and includes an employment verification letter from [redacted] listing the Petitioner's duties as a translational engineering scientist. Additionally, the Petitioner provides information about his employer and their work in the field of diabetes research. Although the Petitioner states that his proposed endeavor is not related to his employment, we are not persuaded by this as the record establishes that he intends to pursue his proposed endeavor through his employment with [redacted]. Further, on appeal, the Petitioner's employer provides an additional letter discussing his contributions to their diabetes work. Therefore, we conclude that the Petitioner's employment is a factor he uses to support the prospective impact of his proposed endeavor and is accordingly part of our review of his proposed endeavor's national importance.

On appeal, the Petitioner asserts that even if we take his employment into consideration his work will extend beyond his employer in the form of peer-reviewed publications and conference presentations which will lead to national or global implications within his field. *Dhanasar* states that an 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.* However, it is unclear what the Petitioner's role would be in the research or that he would be publishing peer reviewed articles or presenting at conferences to disseminate his work more broadly to have national or even global implications in the field. The Petitioner's employment letter states that he "may author and review technical reports, regulatory filings, source documents and external publications." Further, the letter from the Petitioner's employer that was submitted on appeal states that he "plays a key role in authoring and reviewing technical reports, regulatory filings, source documents, and external publications." However, the record does not contain supporting evidence of these "external publications" such as information on what will be published externally, where it will be published or presented, and what role the Petitioner and his proposed endeavor will have in these publications and presentations. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. Here, the record does not contain

sufficient evidence that the Petitioner's research will be disseminated in a way that would have broader implications for his field.

Furthermore, the record does not establish that the Petitioner's work would be attributed to the Petitioner. It remains unclear what the Petitioner's role would be in research or possible peer-reviewed publications and conference presentations other than his position duties with [redacted]. The record establishes that he is a member of a team at [redacted] that is performing research related to the company's diabetes work. The Petitioner's proposed endeavor statement indicates that research at [redacted] "is promoted at the national level through [redacted] nationwide business channels, outreach, partnerships, and research foundation." Although various letters in the record discuss the importance of the Petitioner's research, the record does not establish if the prospective impact of the project would be attributable to the Petitioner as it is a project for the company and any promotion would be through the company. Although we acknowledge that the Petitioner's role as a researcher and his assigned project is important to his employer, the issue here is not the broader implications of the company, but rather the potential prospective impact of the Petitioner's specific proposed endeavor as a researcher within their company. The evidence does not sufficiently demonstrate how the Petitioner as a single employee working on this team would affect the industry more broadly. Therefore, although the Petitioner contends that his proposed endeavor would improve public health, the record does not demonstrate that any prospective impact would be attributable to the Petitioner.

The Petitioner contends that his proposed endeavor contributes to the U.S. economy by creating jobs. The Petitioner highlights an article which discusses the collaboration between [redacted] and another company which is expected to create 300 jobs. *Matter of Dhanasar* states that an 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. *Matter of Dhanasar*, 26 I&N Dec. at 890. However, it is unclear how this collaboration or job creation would be directly attributable to the Petitioner and his proposed endeavor, rather than his employer. Therefore, this too does not further establish the national importance of the Petitioner's proposed endeavor.

On appeal, the Petitioner asserts the letters in the record; which discuss the Petitioner's research, his field of research, and his prior work that was supported by federal government funding; show that there is government interest in his work and it is therefore of national importance. However, evidence of the Petitioner's prior experience is not evidence of his proposed endeavor's national importance. For example, in a letter written by H-L-, the author discusses the Petitioner's contributions to a project that was supported through a $340,203 grant from the National Institutes of Health.[3] In another letter written by B-C-, the author describes the Petitioner's prior work in advanced predictive modeling, simulation technologies, and analytical methods. Further, in the letter written by C-B-, the author states that the Petitioner's prior work impacted research areas related to biophysics and mechanobiology. As stated above, in determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*at 889. While we acknowledge the Petitioner's experience, evidence of prior work or government interest in previous projects does not

[3] We note that the documents in the record referenced as evidence of the Petitioner's prior funding include acknowledgements of financial support at the end of two documents. However, this is insufficient as it is not evidence of actual funding. In addition, the documents do not include information on the amount of funding granted to the project or that the funding was granted to the Petitioner.

establish the national importance of his work as it does not speak to the prospective impact of a proposed endeavor. While past experience can be persuasive for prong two analysis, whether the Petitioner is well-positioned to advance the proposed endeavor, it does not sufficiently establish claim of national importance.

Further, the Petitioner states that his proposed endeavor is of national importance as it involves his STEM degree and falls within at least two fields considered to be CETs. Although the Petitioner's work may be in the STEM field and involve CETs, the Petitioner must still establish his proposed endeavor has national importance as it is presented in the *Dhanasar* framework. While his work may fall into this category, that alone does not mean it rises to the level of national importance. The proposed endeavor itself must still meet the level of prospective impact set forth in *Dhanasar*. While the Petitioner's proposed endeavor has merit, the record does not support a national importance determination.

While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, remaining *Dhanasar* prongs. *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

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.