U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37190684

Date: MARCH 3, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a researcher in plant sciences, 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 Texas Service Center denied the petition, concluding that the record 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 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 sustain 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;
- The individual is well-positioned to advance their proposed endeavor; and

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Director determined the Petitioner qualified for EB-2 classification as an advanced degree professional by virtue of his Master of Science degree from [redacted] The Director concluded the Petitioner established the substantial merit and national importance of his proposed endeavor, but did not demonstrate that he was well positioned to advance his proposed endeavor 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 asserts the Director erred and he is eligible for and merits a waiver of the job offer requirement in the national interest.

The Petitioner states his proposed endeavor is "to research plant biotic stresses and develop advanced rapid plant disease diagnostic tools in order to improve disease resistance and enhance crop yield." The Petitioner indicates he will pursue his proposed endeavor while earning his doctoral degree in plant pathology at [redacted] The Petitioner states he is currently researching the "late blight" disease impacting the potato and tomato industries and upon completion of his degree intends to research plant biotic stress resistance, plant-pathogen interactions, and the development of plant disease diagnostic tools.

A. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether an individual is 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.*

The evidence shows the Petitioner earned a Master of Science degree and possesses the skills and knowledge to advance his proposed endeavor. The Petitioner submitted letters from other researchers commending his skills and knowledge and discussing his record of success in efforts related to his proposed endeavor. J-S-[2], Associate Professor of Plant Pathology and Microbiology at [redacted] explains that the Petitioner's "work in plant breeding and genetics has made substantial breakthroughs in overcoming critical challenges in agriculture, particularly in the areas of disease resistance and yield improvement." In particular, J-S- notes the Petitioner's work on sclerotinia stem rot (SSR) "enhances crop productivity and protects farmers from devastating yield losses."

K-S-S-, Soybean Product Development Scientist at [redacted] states the Petitioner's work on plant spacing "supports farmers in optimizing nutrient and water uptake, enabling crops to grow vigorously and produce abundant, high-quality harvests." K-S-S- explains the Petitioner's research

[2] We use initials to protect the privacy of the referenced individuals.

promotes food security and stability within the United States and addresses food shortages and disruptions in supply chains.

A-L-, Research Geneticist at [redacted] commends the Petitioner's work on SSR, which is "vital for developing SSR-resistant canola varieties and expediting breeding programs by allowing early-stage selection of resistant germplasms." A-L- also praises the Petitioner's work on pod shattering in canola oil which assists in developing pod-shattering-resistant canola varieties, ensuring higher yields, and simplifying the harvesting process for growers.

A-R-, Molecular Plant Pathologist at the [redacted] states the Petitioner's "groundbreaking research on sclerotinia stem rot and pod shattering in rapeseed reflects a profound grasp of plant pathology and breeding." A-R- explains the Petitioner's "work is a cornerstone for advancing agricultural sustainability and productivity"

The record also documents the interests of other researchers and institutions in the Petitioner's proposed endeavor. The Petitioner submitted evidence of articles he co-authored, which have been cited numerous times by independent research teams in his field. The Petitioner also submitted evidence that his research was funded by the U.S. Department of Agriculture, and the National Science Foundation. In response to the Director's request for evidence (RFE), the Petitioner submitted employment offers he received from [redacted] and additional articles of other scientists citing and relying upon his published research. The Petitioner also submitted a detailed explanation of his proposed endeavor which provides a plan for his future activities.

In response to the RFE, the Petitioner also submitted evidence of his progress towards achieving the proposed endeavor. For example, the Petitioner submitted evidence that his research on breeding for enhanced resistance and adaptability in crops was funded by the U.S. Department of Agriculture, and his investigation of the molecular basis of plant defense mechanisms across various crops is funded by the National Science Foundation and was presented at the [redacted]

In sum, the record establishes that the Petitioner possesses the education, skills and knowledge needed to advance his proposed endeavor. The evidence further demonstrates the Petitioner's record of success in research related to his proposed endeavor, contains a plan for his future activities, shows progress he has made towards achieving his proposed endeavor, and documents the interest of other researchers and institutions in his proposed endeavor. On appeal, the Petitioner has established that he is well positioned to advance his proposed endeavor and the Director's contrary determination is withdrawn.

B. Whether on Balance a Waiver is Beneficial

The third *Dhanasar* prong requires a 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. *Id.* at 890-91. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S.

workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. *Id.* In each case, the factor(s) considered must, taken together, establish 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. *Id.* at 891.

The Petitioner's support letters attest to the urgent national interest in the Petitioner's proposed endeavor. For example, A-L- explains that due to climate change "there is a critical need to develop elite crop varieties with the capability to thrive in adverse environmental conditions." A-L- states the Petitioner's research "promotes sustainability by reducing reliance on harmful pesticides, leading to a healthier environment, wildlife protection, and ecosystem conservation." A-L- explains the Petitioner's work "is at the forefront of sustainable and regenerative agriculture, vital for ensuring plant health, stabilizing the agricultural industry, and overcoming global food security challenges." A-R- describes the Petitioner as a "driving force in the dynamic landscape of plant science, making momentous strides toward resilient, productive, and sustainable agriculture." A-R- also explains the Petitioner's "holistic approach, combining cutting-edge technologies like genome-wide association studies and genomic selection, positions him as a trailblazer in developing climate-resilient crop varieties for the United States."

The Petitioner asserts he has established his eligibility under this prong pursuant to U.S. Citizenship and Immigration Services (USCIS) policy. USCIS recognizes the importance of progress in science, technology, engineering, and mathematics (STEM) fields and the essential role that individuals with advanced STEM degrees have in fostering such progress. 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual/. Accordingly, strong positive factors to consider when assessing the third *Dhanasar* prong include possession of an advanced STEM degree, engagement in work furthering a critical and emerging technology, and being well positioned to advance the proposed STEM endeavor of national importance. *Id.* All of these factors are present in the Petitioner's case.

As previously discussed, the Petitioner possesses a Master of Science degree and is well-positioned to advance his proposed endeavor in plant science which he has demonstrated has national importance. He also submitted evidence that his proposed endeavor involves work on critical and emerging technologies. The record shows the Petitioner's proposed endeavor involves genome and protein engineering, biometrology, bioinformatics, predictive modeling and analytical tools for functional phenotypes, and nucleic acid and protein synthesis. The Petitioner submitted the National Science and Technology Council's Critical and Emerging Technologies List Update which includes all of these biotechnologies.

The relevant evidence shows the national interest in the Petitioner's proposed endeavor is sufficiently urgent to warrant forgoing the labor certification process and the United States would benefit from the Petitioner's contributions even if other qualified U.S. workers are available. Considered together, these factors establish 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 in the Petitioner's case. The Director's contrary determination is withdrawn.

III. CONCLUSION

The Petitioner has established that he is an advanced degree professional eligible for EB-2 classification, that he meets all three *Dhanasar* prongs, and merits a waiver of the job offer requirement in the national interest.

ORDER: The appeal is sustained.