U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36338340

Date: MAR. 04, 2025

Appeal of Nebraska 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 Nebraska Service Center denied the petition, concluding the record did not establish that the Petitioner was eligible for the requested 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 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.

Id.

II. ANALYSIS

The Director determined the Petitioner qualifies for the underlying EB-2 immigrant classification as an advanced degree professional. We agree.[2] Therefore, the remaining issue is whether the Petitioner has established eligibility for a national interest waiver under the *Dhanasar* framework.

The Director determined that the Petitioner's proposed endeavor has both substantial merit and national importance, and that he is well positioned to advance his endeavor. Nevertheless, the Director concluded that the Petitioner did not demonstrate that, on balance, it would be beneficial to the United States to waive the job offer requirement. Specifically, because the record showed that the Petitioner was primarily working as a software engineer rather than performing research, his work appeared to primarily benefit his employer, and he did not establish why a labor certification would be inappropriate, nor did he establish the national interest in his work is sufficiently urgent to waive the labor certification process. Accordingly, the Director concluded that the Petitioner was not eligible for the requested national interest waiver.

On appeal, the Petitioner asserts that the evidence in the record establishes that he is currently engaged in research for future publications, and that the Director did not properly consider the evidence in the record establishing his record of success in the field as well as his plans for continued research in his field. In doing so, he relies on *Buletini v. INS*, 850 F. Supp. 1222 (E.D. Mich. 1994) to support his assertion that the Director erred in failing to consider all the evidence in its totality. But the court in *Buletini* did not reject the concept of examining the quality of the evidence presented to determine whether it establishes a petitioner's eligibility, nor does the *Buletini* decision suggest that USCIS abuses its discretion if it does not provide individualized analysis for each piece of evidence. When USCIS provides a reasoned consideration to the petition, it will not be required to specifically address each claim a petitioner makes, nor is it necessary for it to address every piece of evidence a petitioner presents.[3]

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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 record reflects that the Petitioner earned both a master's degree and a doctorate degree (Ph.D.) in electrical and computer engineering from [redacted] in the United States.

[3] *See, e.g., Ren v. USCIS*, 60 F.4th 89, 97 (4th Cir. 2023) ("[S]o long as [USCIS] has given reasoned consideration to the petition, and made adequate findings, we will not require that it address specifically each claim the petitioner made or each piece of evidence the petitioner presented." (cleaned up)); *Osuchukwu v. INS*, 744 F.2d 1136, 1142-43 (5th Cir. 1984) ("[The Board of Immigration Appeals] has no duty to write an exegesis on every contention").

Upon de novo review, we agree with the Director's conclusion regarding the substantial merit and national importance of the Petitioner's proposed endeavor insofar as it relates to his proposed research only (and not his continued current employment). However, he has not established that he is well positioned to advance his proposed research endeavor, and we withdraw the Director's determination to the contrary. Nonetheless, because we agree with the Director that the Petitioner has not demonstrated that, on balance, it would be beneficial to the United States to waive the job offer requirement and is therefore not eligible for the requested national interest wavier, it would serve no meaningful purpose to remand the matter to the Director. Accordingly, we will dismiss the appeal.

A. Substantial Merit and National Importance

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.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

In describing his proposed endeavor, the Petitioner stated that he intends to "utilize ultra-wideband radiofrequency wireless channel and millimeter-wave radar array technology to add data modulation and expand antenna resolution for real-time communication to improve wireless communication in complex environments and achieve high-resolution radar imaging and target detection." Additionally, he stated that he intends to "publish original electrical and computer engineering research in peer-reviewed journal articles and conference proceedings . . . [and] is conducting independent research focusing on the characterization and signal transmission through complex dynamic wireless channel." According to the Petitioner, his research "represents a significant step forward in advancing wireless communication capabilities for modern technology. . . [and] [t]his innovation holds importance for improving the performance of various applications, including autonomous vehicles . . ."

The record also reflects that the Petitioner is currently employed as a software engineer with [redacted] And that he intends to "continue pursuing [his] proposed endeavor as a software engineer at [redacted] where he will "develop an infrastructure database system for high-speed networking and data transmission and communications," "design and develop[] data management systems," and "work on the development of data transmission networking, and telecommunication algorithms to support high-speed data transmissions." The Petitioner emphasized that his proposed endeavor is distinct from his employment, and clarified that he provided information on his employment to "confirm [his] commitment and capacity" to pursue his endeavor.

In response to the Director's request for evidence (RFE), the Petitioner provided an updated personal statement clarifying his plans. In his new statement, he stated that he intends to "to continue investigating data transmission and digital network communication, including data transmission through wireless communication channels and data transmission between datacenter sites, [and] continue researching the utilization of ultrawide-band (UWB) technology and signal processing algorithms." The Petitioner also stated that he intends to continue "discovering novel technologies and structures for data management systems to improve the reliability of data transmissions in distributed systems dealing with large traffic."

The record contains recommendation letters from the Petitioner's research collaborators, multiple independent advisory opinions discussing the importance of the Petitioner's prior research, as well as numerous articles discussing the impact of wireless communication, radar trends, and data transmission research. Based on the evidence in the record, we agree with the Director's conclusion that the Petitioner's proposed endeavor relating to his prospective research is both substantially meritorious and nationally important. However, insofar as the Petitioner's proposed endeavor involves his prospective employment as a software engineer, we do not agree that his work with [redacted] is nationally important, as the record does not show that the benefits of this work would result in broader implications beyond the benefits to his employer. In *Dhanasar*, we discussed how teaching would not impact the field of education more broadly in a manner which rises to national importance. *Dhanasar* at 893. By extension, activities which only benefit the Petitioner's employer would not rise to a level of national importance.

Accordingly, we will consider the Petitioner's proposed endeavor related to his proposed research.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. 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. *Matter of Dhanasar*, 26 I&N Dec. at 890.

Although the Director concluded, without discussion, that the Petitioner established he is well positioned to advance his proposed endeavor, upon de novo review, we disagree and withdraw the Director's conclusion to the contrary.

The record includes the Petitioner's academic credentials, curriculum vitae, published articles, peer review activity, evidence of past funding sources, letters discussing his past research projects and publications, as well as letters discussing his employment with [redacted], and his ongoing collaborations with researchers in the field. He also provided evidence of articles citing his published work, information on the journals that published his work, and multiple independent advisory opinions discussing his research.

The Petitioner asserts that the evidence relating to his educational credentials, past publications in peer-reviewed journals, and his selection to serve as a peer reviewer for reputable publications "firmly establish" the Petitioner as a scholar well positioned to advance his proposed endeavor. We disagree. Here, while we acknowledge the Petitioner's record of publication and citation history, we conclude that the Petitioner has not consistently documented how he intends to pursue his proposed research activities. Moreover, he has not shown that he has has made progress towards achieving the specific proposed endeavor, or has established interest in his future research.

First, while we acknowledge that the Petitioner's Ph.D. in a STEM field is an especially positive factor for consideration, the Petitioner has not demonstrated that his academic accomplishments are sufficient in and of themselves to demonstrate he is well positioned to advance his proposed endeavor.

Rather, we must look to a variety of factors and education is merely one among many that may contribute to our determination. *See* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policymanual.

Here, while the Petitioner asserts that he has ongoing collaborations and projects, the record does not establish the Petitioner has published research since his last published article in 2021.[4] Rather the record reflects that, since completing his Ph.D., the Petitioner has been continuously employed as a software engineer, first with [redacted] and now with [redacted] Moreover, the Petitioner has not explained *how* he intends to conduct his proposed research or how much time he intends to dedicate to performing this research rather than working full-time as a software engineer with [redacted]

On appeal, the Petitioner relies on a letter from [redacted] as probative evidence of his plans to continue his research, but this letter does not provide sufficient information supporting his plans for his proposed endeavor. Rather, the letter states that, as a software engineering, his "*primary responsibility* is developing and optimizing a large-scale high-performance distributed service for storing, caching, and querying the graph of objects and associations that form the social graph." And, while his employer acknowledges that he can *leverage* his *prior* research to "design and develop[] large scale cashing systems for low latency, high performance global delivery of data required to operate [redacted] suite of products," they do not indicate that he will be conducting his proposed research while working as a software engineer for [redacted] and will instead focus on enhancements to [redacted] database systems.

The Petitioner also relies on his collaborations with Dr. D-L- and Dr. J- J-, as evidence of his ongoing research and to establish that he is well positioned to advance his proposed endeavor. However, the letters from Dr. D-L- and Dr. J-J- do not sufficiently explain their plans for ongoing research, as the letters appear to primarily discuss work that has already occurred, without specifically identifying prospective plans to pursue further research. For example, Dr. D-L- discusses in detail his past research collaborations with the Petitioner, but provides little detail pertaining to the plans for their ongoing research, and in particular how they intend to fund this research. Moreover, while he indicates that he and the Petitioner have an ongoing collaboration, he only discusses the specifics of publications from 2018 that resulted from their collaborations.

Similarly, the letter from Dr. J-J- also does not consistently establish the Petitioner's plans for his future research. While the letter claims that they are currently engaged in research "with funding from the Defense Advanced Research Projects Agency (DARPA)," Dr. J-J- also states that the results of this research were previously reported in 2017, when the Petitioner was pursuing his Ph.D. and working as a research assistant at his former university. And the record shows that the Petitioner's professor, not the Petitioner or Dr. J-J- was primarily named as a recipient of this funding, which appears to have occurred in 2016-2017. While we acknowledge that Dr. J-J- states that they are currently working on a draft to publish their conclusions, he does not provide sufficient information as to where they plan to publish these conclusions, nor is it clear from the letter whether he is relying on the Petitioner's past work for this future publication. And the Petitioner has not sufficiently explained *how* he is engaged in ongoing research, or provided insight into the extent of the ongoing

[4] The Petitioner's latest publication indicates that the manuscript was initially completed in July 2020. Additionally, the article identifies him as being associated with [redacted].

collaboration with his former colleagues. Without this critical information, we are unable to determine that he is well positioned to advance his endeavor.

Additionally, the Petitioner also indicates that his research was funded by the Asian Office of Aerospace Research and Development (AOARD), but he has not shown that he was primarily responsible for securing the funding for the research projects. In contrast, Dr. Dhanasar provided evidence establishing that he "initiated" or was "the primary award contact on several funded grant proposals" and that he was "the only listed researcher on many of the grants." *Dhanasar* at 893, n.11. Accordingly, we are not persuaded by the Petitioner's assertions in the record that the letters from Dr. J-J- and Dr. D-L- clearly establish his plans for future research.

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, but 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. *Matter of Dhanasar*, 26 I&N Dec. at 890. Furthermore, while the Petitioner routinely engaged in research while pursuing his Ph.D. the record reflects that, since graduation, he has worked as a software engineer. The Petitioner has not sufficiently demonstrated that his past publications and his current employment will allow him to continue to advance his proposed research as described in the record.

Because the record does not demonstrate that the Petitioner is well positioned to advance his proposed endeavor, he has not established that he satisfies the second prong of the *Dhanasar* framework. Accordingly, we withdraw the Director's determination to the contrary.

C. Whether on Balance a Waiver is Beneficial

The third 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. *Matter of Dhanasar*, 26 I&N Dec. 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.

Although we have already determined that the Petitioner has not established that he is well positioned to advance his endeavor, and therefore does not merit a national interest waiver under the *Dhanasar* analytical framework, we will nonetheless address the Petitioner's eligibility under the *Dhanasar's* third prong.

On appeal, the Petitioner continues to rely on his proposed research to establish that, on balance, it would be beneficial to the United States to waive the job offer requirement, asserting again that he is

currently engaged in research for future publication and that he has developed comprehensive plans for future research. And he asserts that the record contains "similar evidence" to the evidence we relied upon in *Dhanasar* to conclude that Dr. Dhanasar satisfied the third prong. Specifically, he claims that the record shows he has published in authoritative journals, notably influenced subsequent work, been funded by reputable organizations, and has been cited at a rate that far outpaces his peers.

As previously discussed, however, the Petitioner has not sufficiently documented how he intends to pursue his prospective research. While we recognize that the Petitioner has engaged in past research, he has not supported his statement that his citation record "far outpaces" his peers by providing comparable evidence in the record. And because the record does not contain sufficient information establishing the Petitioner's plans for his continued research, he has not provided support for his assertions that his work will play a "critical role" in "advance[ing] global technological development and improve national security," as claimed on appeal. Accordingly, without more, we cannot conclude that his endeavor will result in benefits to the United States at a level that would warrant forgoing the labor certification process.

The Petitioner has also not established that the national interest in his work is sufficiently urgent to warrant a waiver of the labor certification process. The Petitioner asserts that his work in data management systems is urgent given the importance of distributed data management systems in managing and extracting value from massive amounts of data. In support, the Petitioner references his development of "infrastructure data management system" for his employer, but again, he has not shown how this work would benefit the United States, beyond the direct benefit to his employer and its operations. We acknowledge the Petitioner's statement in the record that his work has resulted in a white paper published by his employer; however, as evidence of this publication the Petitioner provided a white paper published nine years before he began his employment with [redacted] He has not clarified how his work, which began in February 2024, resulted in the publication of this white paper.[5] And because he has not shown how he intends to continue his research, or otherwise continue to publish his research, we cannot conclude that he has shown his work is sufficiently urgent to warrant waiving the labor certification process.

For the reasons discussed, the Petitioner has not shown that, on balance, it would be beneficial to waive the labor certification process.

III. CONCLUSION

The Petitioner has not established eligibility for a national interest waiver under the *Dhanasar* analytical framework. We, therefore, conclude that he has not established that he is eligible for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

[5] A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.