U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37115830

Date: MAR. 04, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a researcher in the field of biomedical engineering, 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 EB-2 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 the Petitioner is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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 sustain 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.

Once 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. 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. Matter of Dhanasar, 26 I&N Dec. 884 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. Dhanasar states that 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 to be 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. at 889.

II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree.[2] The record supports that conclusion. The remaining 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. Upon de novo review, the Petitioner has established eligibility for a national interest waiver under the analytical framework set forth in Dhanasar.

A. Substantial Merit and National Importance

The Director determined that the Petitioner established the substantial merit of her proposed endeavor but did not demonstrate that her proposed endeavor is of national importance. For the reasons discussed below, we conclude that the Petitioner has established her endeavor has substantial merit and is of national importance.

The first prong of Dhanasar, 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, sciences, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Id.

The Petitioner currently works as a researcher at [redacted] while also pursuing her Doctor of Philosophy in bioengineering. She intends to continue her work as a postdoctoral researcher with her research being focused on parvalbumin-expressing neural activities during sleep and wakefulness with the goal of understanding how the disruption of cerebrospinal fluid clearing is linked to neurodegeneration.

The Petitioner submitted probative letters of support from experts in the fields of biomedical engineering and neurology describing in meaningful detail the Petitioner's research work, her proposed endeavor, and its potential prospective impact on the fields. The letters describe how her research explores the neural control mechanisms governing vascular changes in the cortex during sleep in order to identify which neuronal cell types are instrumental in controlling vascular changes. Specifically, the Petitioner will focus on examining the dynamics of Tac1 and parvalbumin neurons, along with blood volume across different arousal stages; investigating the specific role of substance P peptide in controlling arteriole dilation during sleep; and determining the effect of nNOS neurons ablation in Tac1 and parvalbumin cre mice. By having a better understanding of the interactions between neural activity and vascular dynamics in the brain, academic colleagues in her field explain

[2] To qualify for the underlying EB-2 classification as an advanced degree professional, the Petitioner submitted her diploma, academic transcripts, and an academic evaluation indicating she earned a Master of Science in biomedical engineering from [redacted] in Iran 2019. Based on the evidence, the Petitioner has established she earned the foreign equivalent of the U.S. master's degree and is, therefore, an advanced degree professional.

that her research has the potential to help advance research for brain health, in particular early detection and preventative strategies for neurodegenerative diseases, such as autism spectrum disorder, schizophrenia, Alzheimer's disease, and Parkinson' disease.

Moreover, the Petitioner's endeavor has the potential to advance a critical and emerging technology field, biomedical engineering. USCIS recognizes the importance of progress in science, technology, engineering, and mathematics, especially in focused critical and emerging technologies important to U.S. competitiveness or national security. See generally 6 USC1S Policy Manual, F.5(D)(2), https://www.uscis.gov/policymanual.

Accordingly, we withdraw the Director's determination as to the first prong of the Dhanasar framework and conclude that the Petitioner has satisfied with material, relevant, and probative evidence both the substantial merit and national importance of her proposed endeavor.

B. Well-Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. To determine whether an individual is well-positioned to advance the proposed endeavor, we consider factors including, but not limited to 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.

The Director determined that, after consideration of these factors, the evidence submitted did not establish that the Petitioner meets *Dhanasar's* second prong. Upon de novo review, we conclude that the Petitioner has established by a preponderance of the evidence that she is well-positioned to advance her proposed endeavor.

The record includes the following: the Petitioner's curriculum vitae; academic records; published and presented work; peer review activity; documentation of articles that cited to her research findings; recommendation letters from academic research colleagues; and documentation relating to a National Institute of Neurological Disorders and Stroke grant.

As discussed above, the Petitioner completed a Master of Science in biomedical engineering from [redacted] in Iran in 2019, and is currently pursuing a Doctor of Philosophy in biomedical engineering at [redacted] Her current research with the Department of Biomedical Engineering at [redacted] as well as her proposed research work are related to her advanced degree. For purposes of assessment under the second prong, USCIS considers an advanced degree in the fields of science, technology, engineering, and mathematics (STEM), which is tied to the proposed endeavor and related to work furthering a STEM area important to U.S. competitiveness or national security, an especially positive factor to be considered along with other evidence. See generally 6 USCIS Policy Manual, supra, at F.5(D)(2).

In addition to her research being related to her advanced degree, the Petitioner has authored peer-reviewed articles of her research which have been published in reputable journals and presented at a neuroscience conference. Her research has been supported by funding from the National Institute of

Neurological Disorders and Stroke, a component of the National Institute of Health. The record indicates her research has garnered recognition through its citation by independent, reputable national and international researchers, and that the rate at which her work has been cited is high relative to others in her field. Moreover, she has conducted peer-review for a reputable scientific publication related to her field.

Several recommendation letters from fellow academic researchers describe, in meaningful detail, their research expertise and the significance of the Petitioner's technical research skills and work. The letters stress the Petitioner's research contributing to the field's understanding of the role of parvalbumin neurons in sleep regulation to advancement in early detection, prevention, and solutions for neurodegenerative issues and diseases. Multiple letters from independent academic researchers provide specific detailed examples of how the Petitioner's research methodology and findings directly impacted their previous and ongoing research and how her work has contributed to the field. Moreover, letters from reputable academic researchers express meaningful interest in collaborating with the Petitioner and recruiting her as a postdoctoral researcher.

In considering the totality of the evidence, the Petitioner has demonstrated that her education, experience, and accomplishments in the biomedical engineering field; the significance of her role and background in conducting her research; and her current employment as a researcher are relevant, probative, and material proof of being well-positioned to advance her proposed endeavor. As we stated in Dhanasar, "endeavors related to research, pure science, and the furtherance of human knowledge may qualify, whether or not the potential accomplishments in those fields are likely to translate into economic benefits for the United States." Matter of Dhanasar, 26 I&N Dec. at 892. We must consider the totality of the circumstances and whether the record as a whole demonstrates that the Petitioner is well-positioned to advance the proposed endeavor. See generally 6 USC1S Policy Manual, supra, at F.5(D)(1). Considering the totality of this evidence and its support of the nonexclusive second prong factors provided in Dhanasar, we conclude that the Petitioner has established by a preponderance of the evidence that she is well-positioned to advance her proposed endeavor.

Accordingly, we withdraw the Director's determination as to the second prong of the Dhanasar framework and conclude that the Petitioner has satisfied this requirement.

C. Whether on Balance a Waiver is Beneficial

The Director determined that the Petitioner had not satisfied the third prong of the Dhanasar framework. Upon de novo review, we conclude that the waiver of the labor certification requirement for the Petitioner would, on balance, be beneficial to the United States.

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. 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.

In each case, the factors 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. Matter of Dhanasar, 26 I&N Dec. at 890-91.

When evaluating the third prong and whether the United States may benefit from the individual's entry, regardless of whether other U.S. workers are available, USCIS considers the following combination of facts contained in the record to be a strong positive factor: possession of an advanced STEM degree, engagement in work furthering a STEM area important to U.S. competitiveness, and that the individual is well-positioned to advance the proposed STEM endeavor of national importance. See generally USCIS Policy Manual, supra, at F.5(D)(2). In addition, the Petitioner has published research and peer review of her work; the knowledge and skills in her proposed endeavor; a plan with progress to further her proposed STEM endeavor; and the interest and support of national and international academic members in her field. The Petitioner possesses the academic credentials, experience, and expertise in her biomedical engineering field to continue her research studies in parvalbumin-expressing neural activities during sleep and wakefulness with the goal of understanding how the disruption of cerebrospinal fluid clearing is linked to neurodegeneration.

Based on the foregoing, the Petitioner has established she offers contributions of such value that, on balance, she would benefit the United States even if other qualified U.S. workers are available. The Petitioner, therefore, meets the third prong of the Dhanasar framework. Accordingly, we withdraw the Director's decision otherwise.

III. CONCLUSION

The Petitioner has demonstrated her eligibility for the underlying EB-2 classification and has met the requisite three prongs set forth in the Dhanasar analytical framework. We conclude that she has established eligibility for, and otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is sustained.