U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37487148

Date: MARCH 14, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, a software development engineer, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, 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 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 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;
- 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 Petitioner submitted evidence that she holds a master's degree in computer science from [redacted] and the Director determined she qualifies for EB-2 classification as an advanced degree professional. We agree. The only issue on appeal is whether the Petitioner qualifies for a waiver of the job offer requirement in the national interest.

The Petitioner initially stated her proposed endeavor is "to strengthen communication system security by building efficient, privacy-preserving data systems that seamlessly integrate with AI/ML models." In response to the Director's request for evidence (RFE), the Petitioner further stated she would conduct research on "advanced AI [artificial intelligence] algorithms, privacy-preserving secure data systems, and real-time data analytics, all aimed at enhancing the security and resilience of communication infrastructures." The Petitioner explained this research "address[es] significant challenges in national cybersecurity by protecting sensitive data and enabling early detection and prevention of cyber threats." The record indicates the Petitioner intends to pursue her proposed endeavor while employed at [redacted]

A. Substantial Merit and National Importance

The first *Dhanasar* 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 Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that her proposed endeavor would have substantial positive economic effects or broader implications in her field indicative of national importance.

On appeal, the Petitioner asserts the Director did not provide a detailed explanation of the reasons for denial and did not conduct a thorough assessment of all the evidence submitted. The Petitioner claims her proposed citation records show her research has been widely disseminated and influenced others in her field. The Petitioner submitted evidence that two of her co-authored articles have been cited a total of 19 times. The Petitioner did not provide evidence of how many of the citations were self-citations and how many were by independent research teams. The Petitioner's citation record indicates her work has been acknowledged by other researchers, but does not indicate that such recognition is at a level commensurate with national importance.

The Petitioner also claims the Director disregarded letters she submitted from experts in her field with knowledge of her achievements. We have reviewed the Petitioner's support letters. J-L-[2] praises the Petitioner's work as a student and employee at [redacted] and states "her work exemplifies the kind of innovation, quality, and potential that the country needs," but does not discuss her specific proposed endeavor. M-L-, the Petitioner's supervisor at [redacted] commends the Petitioner's contributions to [redacted] software and expresses confidence that the Petitioner "will be crucial in shaping a safe and innovative digital future," but does not discuss the Petitioner's proposed endeavor. P-T- praises the Petitioner's work on the verification code autofill and mail categorization projects at [redacted] and states her "diverse and unique combination of expertise in AI, security, and data systems … is precisely what is needed by the United States to maintain its global technological leadership in the next decade," but does not address her proposed endeavor. K-P- also commends the Petitioner's achievements at [redacted] nd states her work "not only protects the online safety of digital users, but also promises to enhance the technological leadership and economic strength of the United States, solidifying its position as a global leader in technology." K-P- does not explain how the Petitioner's specific proposed endeavor would enhance U.S. technological leadership and economic strength.

The Petitioner submitted additional support letters in response to the Director's RFE. M-Z-, the Petitioner's graduate advisor at [redacted] raises the Petitioner's past work at [redacted] and [redacted] and states the Petitioner's proposed endeavor "is of great national importance, as it addresses urgent issues in communication system security, a field increasingly vulnerable to cyberattacks and privacy breaches." M-Z- does not, however, discuss how the Petitioner's work would extend beyond her employer and its clients to impact her field more broadly. S-V-K- praises the Petitioner's published research and contributions at [redacted] and states her proposed research "will not only enhance communication system security but also bolster the United States' leadership in AI-driven cybersecurity solutions, making [her] work vital to national security and economic competitiveness." S-V-K- does not explain how the Petitioner's work would extend beyond her employer and its clients to impact U.S. national security and economic competitiveness.

The Petitioner further asserts her proposed endeavor "will mitigate financial losses from cyberattacks, thereby offering significant social-economic benefits to the U.S." The Petitioner submitted the National Science and Technology Council's Critical and Emerging Technologies List Update which includes AI and data privacy, data security, and cybersecurity technologies. We acknowledge that the Petitioner's proposed endeavor involves critical and emerging technologies. The Petitioner also submitted articles and reports on data privacy, enhancing email and web security, cybersecurity and economic growth and trade, national cybersecurity strategy, the National Institute of Standards and Technology Cybersecurity Framework, email client market share, phishing attacks, cost of data breach, ransomware attack statistics, business email compromise, cybersecurity statistics, and demand for cybersecurity professionals. The articles and reports attest to the importance of data privacy and cybersecurity, but do not discuss the Petitioner's proposed endeavor. Our assessment of national importance does not focus on the importance of a field in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, the Petitioner does not demonstrate how her work would extend beyond her employer and its clients to impact her field more broadly in a manner commensurate with national importance. *See id.* (explaining "we look for broader implications").

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

In *Dhanasar,* we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, the Petitioner has not established that her proposed endeavor would sufficiently extend beyond her employer and its customers to impact her field more broadly in a manner commensurate with national importance. Consequently, the Petitioner does not meet the first *Dhanasar* prong.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of her specific proposed endeavor and she does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of her eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not established the national importance of her proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, she has not demonstrated that she is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.