U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37479329

Date: MARCH 21, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a civil 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 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 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 Director determined the Petitioner qualifies for EB-2 classification as an advanced degree professional because he submitted evidence that he holds a Master of Science degree in civil engineering from [redacted] University. 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 his proposed endeavor is to further his "research in pavement materials and their significant implications for public welfare and environmental sustainability." The Petitioner explained that his research promotes the "use of recycled materials, recycled asphalt pavement (RAP), recycled asphalt shingles (RAS), and waste cooking oil (WCO), as additives in asphalt pavement thereby reducing waste and dependence on non-renewable resources."

In response to the Director's request for evidence (RFE), the Petitioner specified that his research would "validate the VECD [Viscoelastic Continuum Damage] model," "verify the VECD model's applicability to IDT [indirect tension] tests," "conduct comprehensive testing ... to enhance the VECD model's robustness," "evaluate the model's effectiveness and reliability across different loading modes," "develop failure criteria and index parameters ... for IDT test," "assess the impact of differences between VECD model coefficients derived from IDT and uniaxial cyclic fatigue tests," and "enable VECD model characterization without complex displacement measurement methods."

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 his proposed endeavor had significant potential to employ U.S. workers or other substantial positive economic effects. On appeal, the Petitioner asserts the Director did not fully analyze the evidence and did not adjudicate the petition in accordance with U.S. Citizenship and Immigration Services (USCIS) policy and *Matter of Dhanasar*. We agree the Director failed to assess the national importance of the Petitioner's proposed endeavor under all the factors articulated in *Dhanasar* and we address the relevant evidence in our discussion below.

First, the Petitioner asserts the Director did not follow USCIS policy on the consideration of endeavors involving science, technology, engineering, and mathematics (STEM). USCIS recognizes the importance of progress in 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/. However, "in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." *Id.* The Petitioner's work in a STEM field alone is insufficient to establish the national importance of his proposed endeavor.

Second, the Petitioner claims the Director disregarded his support letters. The Petitioner submitted letters from other scientists in his field who attest to his skills and experience, but do not specifically address his proposed endeavor. S-D-D-[2] praises the Petitioner's study on the impact of recycling agents on asphalt mixture performance. J-S- commends the Petitioner's work on WCO, RAP and RAS. A-B- praises the Petitioner's work on geosynthetic pavement interlayer improvement. R-K- explains the significance of the Petitioner's work on geosynthetic interlayer products placed between asphalt pavement layers. C-W- praises the Petitioner's work on WCO. However, S-D-D-, J-S-, A-B-, R-K-, and C-W- do not discuss the impact of the Petitioner's work on the VECD model as he described in his RFE response detailing his proposed endeavor.

In response to the RFE, the Petitioner submitted a second letter from R-K- stating the Petitioner's work on the VECD model "is crucial as the asphalt paving industry transitions towards performance-based approaches and increased use of recycled materials in asphalt mixtures." R-K- does not indicate that the Petitioner's work on the VECD model has been published or has national or even global implications in his field. *See Matter of Dhanasar,* 26 I&N Dec. at 889 (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

Third, the Petitioner claims his proposed endeavor has national importance because it involves the critical and emerging technology of advanced engineering materials and aligns with government interest in transportation infrastructure sustainability. The Petitioner submitted a Federal Highway Administration Policy on the Use of Recycled Materials, articles addressing highway pavement and materials, the Federal Buy Clean Initiative, Advancing a Circular Economy to Meet Our Climate, Energy, and Economic Goals, the Biden-Harris Administration's investment in recycling infrastructure, Balanced Mix Design, Asphalt Mixture Design, and Superpave. These materials do not address 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.*

The Petitioner submitted evidence that at the time of filing he had published two articles in scientific journals that have been cited by other researchers, and that he co-authored reports on the development of geosynthetic pavement interlayer improvements, the development of a tack coat quality control program, and screening of asphalt extenders and recycling agents which were submitted to the North Carolina Department of Transportation. While this publication and citation record shows the Petitioner's past research has been relied upon by other researchers and funded by the North Carolina Department of Transportation, it does not establish that his proposed endeavor has broader

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

implications in his field commensurate with national importance. *See id.* (explaining "we look for broader implications").

In sum, the relevant evidence does not establish that the Petitioner's proposed endeavor has national or even global implications within his field, or has other broader implications indicating 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 his specific proposed endeavor and he 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 his 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 his proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, he has not demonstrated that he 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.