U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37440700

Date: MAR. 31, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an advanced materials engineering researcher, 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 while the Petitioner is an advanced degree professional, she did not establish eligibility for a national interest waiver. 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 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 found that the Petitioner did not establish she met the national interest waiver requirements. Specifically, the Director did not find that the proposed endeavor has substantial merit and national importance, the Petitioner is well-positioned to advance the proposed endeavor, and waiving the job offer requirement would benefit the United States. We determine that the record does not establish that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest.

The first prong of the *Dhanasar* analytical framework requires the Petitioner to establish the proposed endeavor has both substantial merit and national importance. With respect to the Petitioner's proposed endeavor, she stated on her petition that she would work as a postdoctoral researcher and would "[e]mploy solid-waste polymers or modified ion exchange membranes to recover metal resources from wastewater, enabling eco-friendly water remediation and promoting sustainable resource management." She submitted a statement with her petition providing the proposed endeavor is to "employ natural solid-waste polymers or modified ion exchange membranes for metal resources recovery in order to enable the sustainable remediation of contaminated water resources and promote environmentally responsible resource management practices" and "prepare and characterize natural polymer-based materials to highly utilize solid waste, remedy water pollution and metal resources recovery, and modify ion exchange membranes to selectively separate valuable lithium from brine, produced water and seawater, and publish original advanced engineering materials research in peer-reviewed journals and conferences." She stated that her research would be at [redacted] University or a similar employer. In response to a request for evidence (RFE), the Petitioner further stated "I intend to continue my research into developing high-rate and high-capacity adsorbents from solid waste to remove heavy metal ions from water and wastewater. Additionally, I will modify cation exchange membranes with crown ether to selectively recover precious metal ions, such as lithium, using electrodialysis or electrochemical methods from brines, produced water, and seawater . . . I will enhance cation exchange membranes with polyethyleneimine for desalinating brackish water."

As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. Although the Director found the proposed endeavor did not possess substantial merit, the Petitioner sufficiently demonstrated that the endeavor falls within one or more of the areas contemplated by *Dhanasar*. However, for the reasons discussed below, we conclude that the Petitioner

[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).

has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

The record includes, but is not limited to, statements from the Petitioner, educational records, recommendation letters, published journal articles, a list of critical and emerging technologies, citations of the Petitioner's work, prior AAO decisions, and industry articles, papers, and reports.

In finding that the Petitioner did not establish the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework, the Director listed the evidence submitted by the Petitioner and discussed her claims in detail. The Director mentioned multiple times that the record lacks meaningful details about the proposed endeavor. The Director stated that the Petitioner did not show how her proposed endeavor would sufficiently extend beyond an organization and its clients to impact the industry or field more broadly, and that the letters of support focuse on her background instead of the proposed endeavor. The Director mentioned that none of the articles and reports mention the proposed endeavor and the impact it would have on her field. The Director noted that the Petitioner made broad assertions about the intrinsic value of the proposed endeavor, did not provide meaningful details about the specific research she intends to engage in, and evidence of her past research does not by itself establish national importance. The Director further mentioned that the record lacks letters from interested U.S. government agencies or quasi-governmental entities establishing expertise in the proposed endeavor and that it would advance a critical and emerging technology or is otherwise important for maintaining national technological prominence; and while science, technology, engineering, and mathematics (STEM) fields are important, she did not show the proposed endeavor would impact a STEM field more broadly to establish national importance.

The Director concluded the decision by finding that the Petitioner did not provide sufficient evidence of the prospective endeavor's potential prospective impact, including broader implications, or national or global implications within the field; significant potential to employ U.S. workers; substantial economic effects, particularly in an economically depressed field; broad enhancement of societal welfare; or broad enhancement of cultural or artistic enrichment. Therefore, the Director found that the Petitioner did not establish the proposed endeavor is of national importance.

On appeal, the Petitioner argues that she established, by a preponderance of the evidence, that her proposed endeavor has national importance. The Petitioner points to information about her field from Fair Market Research, RSC Advances, and the Centers for Disease Control and Prevention in asserting that the proposed endeavor has national importance. In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the [noncitizen] proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" and endeavors that have broader implications, such as "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90.

Next, the Petitioner references the Critical and Emerging Technologies List Update issued by the National Science and Technology Council, which lists materials by design, materials with new properties, and materials with substantial improvements to existing properties as areas of major importance to the United States. She claims that the proposed endeavor directly advances these federal priorities. We recognize the importance of STEM related professions; however, merely working in an important field is insufficient to establish the national importance of the proposed endeavor.

The Petitioner refers to letters from experts in advanced engineering materials who discuss the value of the Petitioner's research. For instance, her supervisor at [redacted] University mentions that her research on [redacted] has resulted in a patent and multiple proposals submitted to the U.S. Department of Energy (DOE). The Petitioner also references her prior statement where she mentioned that the proposed endeavor aligns with the U.S. national interest in heavy metal and pollutant removal requirements, and that the Environmental Protection Agency (EPA) and the states have identified almost 70,000 bodies of water nationally that do not meet water quality standards. The record lacks evidence from interested parties, such as the DOE or EPA, establishing they would use her research to a level that would be nationally important. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of her work. While the Petitioner's statements reflect her intention to continue research in the advanced materials engineering field, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. Simply obtaining employment or conducting research in a worthy field or industry, such as advanced materials engineering, does not warrant a national interest waiver. Accordingly, without sufficient documentary evidence of its broader impact, the Petitioner's proposed research does not meet the "national importance" element of the first prong of the *Dhanasar* framework. Similarly, 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. In addition, the Petitioner has not sufficiently demonstrated that her specific proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation.

Finally, we note the Petitioner's statements regarding her expertise and prior accomplishments in the field of advanced materials engineering. These statements, however, address aspects of the second *Dhanasar* prong but do not address how the proposed endeavor in the United States has broader implications as required by the first *Dhanasar* prong. *See id.*

The Petitioner has not established that her proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding her eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.