U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37467871

Date: MAY 16, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a thermal energy researcher from Nepal, 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 Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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.

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. If 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. 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;

[1] See also Flores v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).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.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree and we agree.[2] The sole 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.

At the time of filing, the Petitioner was involved in research studying how to enhance the size and improve the quality of high thermal conducting Boron-based group III - V semiconductors, namely cubic Boron Nitride (c-BN), Boron Arsenide (c-BAs), and Boron Phosphide (c-BP), semiconductors with the highest thermal conductivity. With regard to his proposed endeavor, the Petitioner stated that he intended to continue his research on high thermal conducting materials related to managing heat generated by semiconductors in electronic devices. He asserts that his proposed endeavor will reduce device failures, reduce device costs and reduce environmental degradation.

For the reasons discussed below, we conclude the Petitioner has established eligibility for a national interest waiver under the analytical framework set forth in Dhanasar.

A. Substantial Merit and National Importance of the Proposed Endeavor

We withdraw the Director's determination that the Petitioner did not establish the national importance of his proposed endeavor under *Dhanasar's* first prong. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Dhanasar, 26 I&N Dec. at 889. As evidence that his proposed research has substantial merit and national importance, the Petitioner presented information about his research in the area of thermal energy. In addition to his education and research, the Petitioner has four peer-reviewed journal articles in highly rated journals. Notably, one article had over 200 citations at the time the petition was filed and was ranked among the top 1% of most cited articles in the field of material sciences in 2020.[3]

The record reflects that the Petitioner's research has received funding from the U.S. Air Force Office of Scientific Research, the U.S. Office of Naval Research, and the Future of Semiconductors Program operated by the National Science Foundation. He also provided letters of support. One letter of support from an Assistant Professor of physics and astronomy at [redacted] discussed how the Petitioner's undertaking contributes to advancements in the development of improved, more precise, and more powerful medical imaging technology. An Associate Professor of aerospace and mechanical engineering at the [redacted] praised the Petitioner's breakthroughs in the area of semiconductors and microelectronics. An Associate Professor of physics and astronomy at the [redacted] and a Professor at the [redacted] pointed out the proposed endeavor's contribution to the energy industry, sustainability, and the environment, improving the energy efficiency of materials and devices that rely on heat transfer.

[2] The Petitioner received a Master of Science in physics from the [redacted] at [redacted] in 2018.
[3] Currently, this article has 269 citations according to Google Scholar.

Additionally, the Petitioner submitted documentation indicating that the benefit of his proposed research offers broader implications for the field of thermal energy, as the results are disseminated to others in the field through scientific journals and conferences. As the Petitioner has demonstrated both the substantial merit and national importance of his proposed research, he has established that he meets the first prong of the Dhanasar framework.

B. Well Positioned to Advance the Proposed Endeavor

The Director found that the Petitioner was well-position to advance his proposed endeavor and we agree. Accordingly, the Petitioner has demonstrated that he satisfies the second prong of the Dhanasar framework.

C. Balancing Factors to Determine Waiver's Benefit to the United States

Furthermore, we withdraw the Director's determination that the Petitioner did not establish he meets *Dhanasar's* third prong. This 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. Id. at 890. As a thermal energy researcher, the Petitioner possesses considerable experience and expertise in the field of semiconductors, microelectronics, and heat transfer. The record also demonstrates the widespread benefits associated with research progress in the development of improved thermal energy technologies. In addition, the Petitioner has documented his past successes in advancing research in the field of thermal energy.

USCIS considers the following combination of facts contained in the record to be strong positive factors: possession of an advanced STEM degree in his field of endeavor; his published research and peer review of his work; his knowledge and skills in his proposed endeavor; a plan with progress to further his proposed STEM endeavor; and the interest and support of national academic members in his field. Based on the Petitioner's track record of successful research and the significance of his proposed work to advance U.S. technological interests, we conclude that he offers contributions of such value that, on balance, they would benefit the United States even assuming that other qualified U.S. workers are available. The Petitioner therefore satisfies the third prong of the Dhanasar framework. Accordingly, we hereby withdraw the Director's decision otherwise.

III. CONCLUSION

The Petitioner has met the requisite three prongs set forth in the Dhanasar analytical framework. We conclude that he has established he is eligible for and otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is sustained.