U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33366590

Date: OCT. 16, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an electrical engineer and medical imaging researcher specializing in ultrasound imagery and diagnostic analysis, seeks second preference 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. 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 the Petitioner had not established 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. 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.

To establish eligibility for a national interest waiver, petitioners must 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. In addition, petitioners must show the merit of 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 that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if:

- 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.

The Petitioner, who holds a Ph.D. in electrical engineering from the [redacted] meets the EB-2 classification as an advanced degree professional. Regarding the national interest waiver, we

[1] *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

will review each prong separately. The first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. In his proposed endeavor, the Petitioner intends to conduct research and develop new techniques to extract information from medical images for research on deadly human diseases. The Director found the Petitioner established substantial merit, but not national importance. We agree that the Petitioner has shown his endeavor has substantial merit. However, we disagree with the Director on national importance and find that the proposed endeavor has national importance.

To satisfy the national importance requirement, the Petitioner must demonstrate the "potential prospective impact" of his work. Here, through numerous recommendation letters and publications the Petitioner has established his research has broad implications for the entire medical imaging field. Currently, the Petitioner is employed by [redacted] on a $70 million dollar project funded by the Department of Health and Human Services and the Bill and Melinda Gates Foundation. The record indicates that this project explores how artificial intelligence and data-driven methods can contribute to better and wider application of point of care lung ultrasound imaging to provide automated diagnosis for patients, as well as cover insights into the mechanisms of infectious diseases affecting the lungs. Specifically, the Petitioner designs new algorithms to interpret lung ultrasound videos and diagnose lung pathologies. The Petitioner's supervisor explains further that they are developing the first of its kind, multi-functional, hand-held ultrasound systems to rapidly assess trauma, lung injuries, and infectious diseases. These systems will be used in and out of a hospital setting, including in a pandemic response, in pediatrics, and in under-served communities.

Thus, the evidence is sufficient to demonstrate that the potential prospective impact of the Petitioner's proposed ultrasound imaging work offers advancements in medical care and diagnosis on a broad scale. As the Petitioner has documented both the substantial merit and national importance of his proposed endeavor, we find that he meets the first prong of the *Dhanasar* framework.

Furthermore, although the Director decided the Petitioner did not satisfy the second and third prongs of *Dhanasar*, the record does not support this conclusion. The second prong shifts the focus from the proposed endeavor to the Petitioner. *Dhanasar*, 26 I&N Dec. at 890. The record includes his curriculum vitae, academic records, 27 peer reviewed journal publications, 8 conference publications, 19 peer reviewed scientific abstracts, and 3 patents.[2] In addition, the Petitioner offered reference letters describing his expertise, his past record of success, and the substantial impact his work has had on the medical imaging field. His current supervisor describes him as the lead technical contributor on the proposed endeavor and "absolutely critical to the success of the program." In addition, much of the Petitioner's past success involves his role in the development of [redacted] software,[3] a tool for vascular image quantification which is widely used. The Petitioner's doctoral advisor describes him as "the brilliant mind behind [redacted] and goes on to emphasize the groundbreaking nature of the Petitioner's invention. His advisor also details how the Petitioner has expanded this research to a system called [redacted] to help with assessing whether someone is at risk of having a stroke or is having a stroke. Moreover, numerous reference letters describe his third contribution to the medical

[2] "USCIS considers an advanced degree, particularly a Doctor of Philosophy (Ph.D.), in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness or national security, an especially positive factor to be considered along with other evidence for purposes of the assessment under the second prong." *See* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual.

[3] [redacted] is an acronym for [redacted]

imaging field, [redacted] which provides a more accurate technique for viewing arteries in medical imaging. As corroborating documentation regarding the significance of his work, the Petitioner provided evidence showing that his research and development of new ways to extract medical diagnosis from medical imaging has had a widespread and significant impact on the medical imaging field. His experience and expertise, published articles, citation evidence, record of success contributing to various research projects, and progress in his field position him well to advance his proposed endeavor. Accordingly, the Petitioner has demonstrated that he satisfies the second prong of the *Dhanasar* framework.

As explained above, the third prong requires the 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. *Dhanasar*, 26 I&N Dec. at 890.[4] As an engineer and medical imaging researcher with a Ph.D., the Petitioner possesses considerable experience and expertise. The record also demonstrates the widespread benefits associated with research in new techniques for medical diagnosis. In addition, the Petitioner has documented his past successes in advancing research and innovation. Based on the Petitioner's track record of successful research and innovation, as well as the significance of his proposed work to advance U.S. interests, we conclude that he offers contributions of such value that, on balance, they 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.

For the reasons discussed above, the Petitioner has met the requisite three prongs set forth in the *Dhanasar* analytical framework. Accordingly, the Petitioner merits a national interest waiver as a matter of discretion.

ORDER: The appeal is sustained.

[4] When evaluating the third prong, USCIS considers the following combination of facts contained in the record to be a strong positive factor:

- The person possesses an advanced STEM degree, particularly a Ph.D.;
- The person will be engaged in work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness; and
- The person is well positioned to advance the proposed STEM endeavor of national importance.

See USCIS Policy Manual, *supra*, at F.5(D)(2).