U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33965025

Date: SEP. 20, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a doctoral research scientist, 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 immigrant 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 the EB-2 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 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 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.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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. While neither the statute nor the pertinent regulations define the term "national interest," *Matter of Dhanasar*, 26 I&N Dec. 884 (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:

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts to conclude the national interest waiver determination is discretionary in nature).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well positioned to advance the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

Id. at 889.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree.[2] We agree with that determination. The remaining 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.

The Petitioner is a doctoral candidate in chemistry at the [redacted] in Massachusetts. According to his resume, the Petitioner has worked as a doctoral research scientist at [redacted] since August 2021 and his research consists of investigating and decoding "the physicochemical properties of phosphoinositides [PIs]" and designing experiments to "elucidate molecular interactions and mechanisms of membrane systems." He was previously a research assistant at a chemical research laboratory in Nigeria from August 2019 to July 2021, conducting a study on "heavy metal in printed writing boards of mobile phones." He was also a research officer at a horticultural research institute in Nigeria from 2017 to 2018, assisting "extraction and analysis of DNA of the microorganisms from infected samples of Banana leaves using biotechnological techniques."

In evaluating *Dhanasar*'s first prong, the Director concluded that although the Petitioner established the substantial merit of the proposed endeavor, he did not establish its national importance.[3] Specifically, the Director found that the Petitioner did not establish that his research would have a broad impact on the field commensurate with national importance and the evidence was insufficient to establish the potential for significant positive economic effects. The Director also stated that the evidence submitted emphasized the importance of the field or industry in general instead of the importance of the Petitioner's specific proposed endeavor. We agree with the Director's conclusion for the reasons discussed below.

The Petitioner has not delineated "the specific endeavor that [he] proposes to undertake" as required under *Dhanasar*. *Id.* In the initial filing, the Petitioner described three different research projects: 1) studying the spatial organization and gradients of PIs to understand molecular basis of cancer cells to advance cancer-related processes, drugs, or treatments; 2) researching heavy metal recovery from electronic waste, specifically from printed wiring boards of mobile phones, to reduce human exposure to such chemical waste; and 3) investigating microplastic and nano-plastic recycling to produce high-

[2] The record demonstrates that the Petitioner holds the foreign equivalent of a U.S. master's degree in chemistry from [redacted] in Nigeria.

[3] The Director did not make any determinations on the second or third prongs of the *Dhanasar* framework. However, the Petitioner does not address the second or third prong issues and has abandoned any challenge regarding this matter. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

valued bioproducts. While the record details the Petitioner's current and past research, it does not outline with specificity the future endeavor he plans to undertake within the various research areas.

The Petitioner's proposed activities and goals are wide-ranging and divergent without a clear focus, including discovery of cancer treatment and drugs, reduction of electronic waste in the environment, and creation of bioproducts from recycling micro- and nano-plastics. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. *Id.* The Petitioner's response to the Director's request for evidence reiterated his current and past research projects with additional details, but he did not specify his prospective endeavor and thereby did not provide sufficient information to allow for proper evaluation of the endeavor's impact under the *Dhanasar*'s first prong. The Petitioner has not clarified how these varied research topics relate to each other, how much time he will devote to executing his different research duties, what his planned projects are, or how his research will continue. The Petitioner has not provided sufficiently detailed statements concerning the proposed future work and as such, we conclude that the Petitioner has yet to identify his specific proposed endeavor.

The Petitioner also has not provided probative evidence of his endeavor's prospective impact. In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* On appeal, the Petitioner contends that his research focused on cancer treatment drug discovery align with the Biden administration's initiative on funding programs to fight cancer in the United States and discuss how relevant federal agencies are investing in research regarding cancer treatment and environmental protection. However, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. For example, the Petitioner's industry articles and reports offer a general overview of cancer statistics and facts and the importance of cancer-related research, but they do not discuss the specific nature of the Petitioner's endeavor or the details of the innovative methodology or discoveries that would result from his research that would broadly impact the field.

In *Dhanasar*, we gave significant weight to "probative expert letters from individuals holding senior positions in academia, government, and industry that describe the importance of hypersonic propulsion research as it relates to U.S. strategic interests" and "detailed expert letters describing U.S. Government interest" in Dr. Dhanasar's specific research. *Id.* at 892. However, the Petitioner has not provided similar evidence, such as the type of expert opinion evidence or letters from government entities detailing how his research impacts a matter that is a subject of national initiatives. None of the articles and reports specifically mention the Petitioner's endeavor or discuss the government's interest in promoting the use of the Petitioner's research.

Instead, the Petitioner makes generalized claims, that he is "uniquely positioned to contribute groundbreaking discoveries in the field of cancer drug discovery using cutting-edge science" or that his research is unique in understanding "how switching/mutating sequence of protein/peptide influencing cancer can affect how it binds to lipids (phosphoinositides) and other biomolecules in the body"; or that his findings show "the validity of the developed novel method in investigating bimolecular interaction." The Petitioner further claims that "my research has garnered recognition

from peers within the field, evident through frequent citations, recommendations, and the expressed interest of fellow researchers in my work."

Despite the Petitioner's various claims about the unique and novel findings of his research that was cited and recognized by fellow researchers, the evidence of record did not offer a sufficiently direct connection between his research and advancement in the cancer drug or treatment or in reducing exposure to toxic waste in in the environment - which appears in large part to form the basis of the Petitioner's assertions that his prospective endeavor will be of national importance. Here, the Petitioner provided recommendation letters, examples of his research papers and citations, and an award of funding, but the record does not offer any supporting evidence detailing how his research will have a broad impact in the field.

While the Petitioner submitted letters of recommendation, they are largely from professors at [redacted] and professors in Nigeria and Uganda with whom he collaborated in research. These professors discuss the Petitioner "as a member of my research group" and the general importance of the research that the Petitioner has engaged in, but none of the authors discussed the Petitioner's proposed future endeavor that would have broad impact rising to the level of national importance. Instead, the authors primarily focused on the Petitioner's past or current research and his skills as a researcher in different research areas. One professor contends that the Petitioner's research in cancer treatment has national importance while another professor claims that the Petitioner's research in recovery of heavy metals contributes to the goals and mission of the U.S. Environmental Protection Agency.

The Petitioner also provided evidence of his research publications and that at the time of filing, his work had been cited eleven times. However, the focus of each publication is different, as one publication discusses the extracting heavy metals from mobile phones to reduce electronic waste while another discusses recycling of plastics. Although the Petitioner claimed that his primary research is in cancer drug discovery, none of the publications cited in the past is germane to cancer-related research. Despite his claims that his research has been acknowledged and cited, the Petitioner has not identified the specific nature of his proposed future research so that we might determine its possible impact, nor has he identified how his future research will be disseminated into the scientific community such that its potential can be properly evaluated.

The Petitioner further submitted an award of funding abstract from the National Science Foundation (NSF) in 2019 with an end date of July 31, 2023. However, the Petitioner has not demonstrated that funding from NSF equates to national importance for the purposes of a national interest waiver with other corroborating evidence, aside from his claim that "the problem being addressed in this research is of national significance." Here, the record does not indicate that the Petitioner is the principal investigator for this research or that he was mainly responsible for obtaining such funding.[4] The Petitioner also has not offered specific plan as to how he will continue this research.

On appeal, the Petitioner contends that the Director focused only on one aspect of his proposed endeavor and did not consider "other aspect of my work which is focused on environmental protection where I discussed how my research on recovery of heavy metals from electronic wastes." The

[4] It appears that the Petitioner previously worked under the auspices of a faculty member whose project was awarded the funding.

Petitioner also contends that the Director mischaracterized his past experience as performing "data research as a student" and mislabeling his endeavor as "medical researcher." However, the Petitioner has not clearly identified his proposed endeavor, whether he is a medical researcher working to find a cancer drug, an environmental researcher seeking to reduce electronic waste, or a general researcher who studies any given topics as required by his employer or institution. When the Director asked for a specific and detailed plan for his proposed endeavor in the RFE, the Petitioner stated that "[m]y primary research focus has centered on identifying potential targets for cancer treatment," but on appeal, the Petitioner attempts to include other research areas that he has investigated in the past to make his appellate arguments. As a result, the Director's statements are not mischaracterization or misunderstanding but a reflection of the undefined nature of the Petitioner's endeavor that complicate evaluation and analysis under the *Dhanasar* prongs.

Overall, the record does not include sufficient information or supporting evidence identifying the specific research projects the Petitioner intends to undertake, the nature and extent of his proposed research, how he will disseminate his research, or how the Petitioner will allocate his time given the different types of research and fields. In determining whether an individual qualifies for a national interest waiver, we must rely on the specific proposed endeavor to determine whether it has national importance under the *Dhanasar*'s first prong analysis. However, the Petitioner has not provided sufficient information regarding his proposed endeavor and its prospective impact.

Based on the foregoing, we conclude that the Petitioner did not establish national importance of the proposed endeavor and does not meet the first prong of *Dhanasar*. Therefore, we decline to reach and hereby reserve the issue of his eligibility under the remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting 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

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not established eligibility for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.