



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 28963842

Date: DEC. 18, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a research scientist, 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 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. 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.

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. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

Section 203(b) of the Act sets out this sequential framework:

(2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. –

(A) In general. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will

substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of job offer –

(i) National interest waiver. . . . [T]he Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien’s services in the sciences, arts, professions, or business be sought by an employer in the United States.

While neither the statute nor the pertinent regulations define the term “national interest,” we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that after a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national’s proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) 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.

II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. We agree. 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 in the process of completing a doctoral degree in computer science at [REDACTED], Rhode Island and explained his research in substantive and meaningful detail, particularly as it relates to artificial intelligence. For example, he described how he “conducts research in the field of advanced computing, using artificial intelligence to examine collected data and improve optimization decisions.” He intends to continue “conducting research in the field of advanced computing using artificial intelligence to look at collected data and make better optimization decisions.” He plans to “contribute to the reviving hardware design automation field in line with the recent CHIPS and Science Act. In the long-term, he intends to continue researching process optimization, with the goal of enabling next-generation computing platforms.” According to the Petitioner, his work—particularly as it relates to artificial intelligence—has already implicated, and stands to implicate further in the future, a broad range of fields including semiconductor manufacturing, logistics, advanced manufacturing, supply chain management, cancer research, and software development.

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*.

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).

A. Substantial Merit and National Importance of the Proposed Endeavor

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. An endeavor may have national importance because it has national or even global implications within a particular field, such as improved medical advances. *Id.* “Endeavors related to research, pure science, and the furtherance of human knowledge may qualify, whether or not the potential accomplishments in those fields are likely to translate into economic benefits for the United States.” *Id.*

In a request for evidence (RFE), the Director stated that the proposed endeavor has substantial merit and national importance, but in the decision denying the petition stated that although it has substantial merit, it is of national importance. We agree with the Director’s initial determination and conclude that the Petitioner’s proposed endeavor has substantial merit as well as national importance.

As evidence that his proposed research has substantial merit and national importance, the Petitioner presented letters of support discussing how his undertaking contributes to the broad fields of advanced computing and computer science. For example, [redacted] a professor of electrical and computer engineering at the [redacted] states:

[The Petitioner] had conducted significant research on using reinforcement learning methods to optimize the logic synthesis process of IC [integrated circuit] layout generation. He has also applied representation learning using graph neural networks to optimize [electronic design automation] EDA cloud deployments costs. I consider both of these to be landmark contributions to the field The [redacted] project, which [the Petitioner] has presented in articles in [redacted]
[redacted]
[redacted] is now considered a cornerstone of open-source tools for hardware chip layout generation.

The record contains evidence substantiating [redacted] conclusions. For example, the Petitioner submitted evidence establishing that [redacted] is being used actively by multiple well-known software companies in the United States. The Petitioner contends, and supports evidence to establish, that his work on the project has had a meaningful and measurable impact on the field as a whole.

The record also contains letters from outside academia discussing the broad reach and impact of the Petitioner’s work. For example, the chief executive officer of [redacted] acknowledged in his letter that the Petitioner’s “algorithms on machine learning and its applications on process optimization are being used at [redacted] to support its logistics network across Egypt.” The Petitioner also submitted scholarly articles discussing his [redacted] contributions and additional documentation indicating that the benefit of his proposed research has broader implications for the field, as the results are disseminated to others in the field through scientific journals and conferences.

The record backs Counsel's assertion that the Petitioner's work "spans both the academic and the industrial—the theoretical and the practical," and that it has already, and stands to have further "tangible effects on the United States' ability to meet its industry goals." 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 second prong shifts the focus from the proposed endeavor to the foreign national. To determine whether he or she is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual's education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals.

We agree with the Director that the Petitioner satisfies this prong. The record includes the Petitioner's academic records (including his Ph.D. transcript in computer science and master's degree in computer science), published and presented work, peer review activity, and documentation of numerous articles that cited to his research findings. As corroborating documentation regarding his work's significance, the Petitioner provided evidence showing that his published work has been frequently cited by independent researchers. His experience and expertise as a research scientist, 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.

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

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. In performing this analysis, USCIS may evaluate factors such as: whether, in light of the nature of the foreign national's qualifications or the proposed endeavor, it would be impractical either for the foreign national to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the foreign national's contributions; and whether the national interest in the foreign national's contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) considered must, taken together, indicate 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.²

As a research scientist who is currently working toward his Ph.D., the Petitioner possesses considerable experience and expertise in his research field. The record also demonstrates the benefits of advanced computing process optimization and the tangible, significant impact the Petitioner's research has already made, and will continue to make, on the field. In particular, the Petitioner has submitted articles documenting his meaningful contribution to the open-source project [redacted].

² See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

Based on the Petitioner's track record of successful research and the significance of his proposed work to advance U.S. education 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, meets the third prong of the *Dhanasar* framework.

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.