



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

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

In Re: 27416545

Date: JULY 25, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a postdoctoral research associate, 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 although the Petitioner qualified for classification as a member of the professions holding an advanced degree, she 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

An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States 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. If a doctoral degree is customarily required for the specialty, the non-citizen must a United States doctorate or a foreign equivalent degree. 8 C.F.R. § 204.5(k)(2).

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. While neither the statute nor the pertinent regulations define the term "national interest," *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 discretion¹, 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.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree in horticulture sciences.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. The Director determined that the Petitioner demonstrated that her proposed endeavor has both substantial merit and national importance, but that she did not demonstrate that she is well positioned to advance her endeavor or that on balance, waiving the job offer requirement would benefit the United States.

At the time of filing, the Petitioner was serving postdoctoral research associate at the University of [REDACTED] Research and Education Center, where she has conducted research on “chemical, physiological, and molecular trait characterization approaches that successfully identify fitted HLB-tolerant citrus varieties.”³ The Petitioner stated that in her proposed endeavor, she will continue to conduct her research and publish original horticulture research in peer-reviewed journals and present at conferences. The Petitioner provided a letter from [REDACTED] Professor of citrus breeding and genetics at the University [REDACTED] Research and Education Center, who stated that the Petitioner was the first scientist to demonstrate that citrus trees respond similarly to abiotic stresses and to Huanlongbing (HLB), a citrus greening disease. [REDACTED] highlighted that the Petitioner was the first scientist to show the positive effects of manganese overdose to the roots of commercial field trees, pointing out that this approach resulted in decreased disease severity and higher fruit yields. He pointed that the Petitioner’s work has been frequently cited and has “contributed significantly to the evolution of improved fertilization programs for citrus trees in Florida.” [REDACTED] went on to discuss the Petitioner’s research in another project, stating that it was a catalyst to the creation of “better tools for pathogen tracking in infected trees.” Likewise, several other researchers who previously worked with the Petitioner, also lauded her successes in other research projects that targeted the issue of HLB and curbing HLB’s impact on citrus trees.

For the reasons discussed below, we conclude that 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).

² The Petitioner presented her transcript and Ph.D. certificate from the University [REDACTED]

³ As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for her to have a job offer from a specific employer. However, we will consider information about her research position to illustrate the capacity in which she intends to work to determine whether her proposed endeavor meets the requirements of the *Dhanasar* framework.

A. Substantial Merit and National Importance

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.

The Director determined that the Petitioner provided sufficient evidence to meet this prong of the *Dhanasar* framework. Our review of the Petitioner's submissions, such as support letters from fellow experts in the citrus research field, highlight the broader benefit and implications of the Petitioner's proposed research, which has the potential to positively impact the national and/or global food supply, safeguard the agricultural industry, and protect the livelihoods of U.S. farmers. We therefore agree with the Director's determination that the Petitioner has demonstrated both the substantial merit and national importance of her proposed research.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the Petitioner. The record includes the Petitioner's curriculum vitae, her academic records, published and presented work, peer review activity, and documentation of numerous articles that cited to her research findings.⁴ In addition, the Petitioner offered reference letters describing her expertise in horticulture research and more specifically, her research of HLB, which has adversely impacted the Florida citrus industry. Several expert references identify specific examples of how the Petitioner's research has affected her field, pointing out that her published work has been frequently cited by independent researchers, a claim that is corroborated by evidence in the record. The Petitioner's experience and expertise as a researcher of HLB, her published articles, citation evidence, progress in her field, and her current employment as a postdoctoral research associate at the [REDACTED] University position her well to advance the proposed endeavor. Accordingly, the Petitioner has demonstrated that she satisfies the second prong of the *Dhanasar* framework.

C. Whether on Balance a Waiver is Beneficial

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.⁵ As a

⁴ We note that, "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>.

⁵ 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).

horticulture researcher with a Ph.D. degree, the Petitioner possesses considerable experience and expertise in promoting the development and growth of HLB-resistant citrus species, thus laying a foundation for growing more resilient plants without having to eradicate trees that are already infected with HLB. The record also demonstrates the potential for widespread horticultural, research, and economic benefits associated with the Petitioner's current research. In addition, because the Petitioner has documented her past successes and established that her proposed work could significantly benefit the Florida citrus industry, we conclude that she 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.

III. CONCLUSION

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

ORDER: The appeal is sustained.