



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

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

In Re: 24834854

Date: MAR. 15, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a biocompatibility material 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 although the Petitioner qualified for classification as a member of the professions holding an advanced degree 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

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.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 serving in a research position as biocompatibility material scientist in the medical solutions division at [REDACTED]³. The Petitioner described his prior research in the energy sector where he worked to “convert [] waste into important biofuels for energy production”; he explained that in his prior work in the energy sector, he used materials evaluation and chemical characterization, the same strategies that he now applies in his proposed endeavor within the healthcare sector for “the development and improvement of new and existing materials for advanced and surgical wound care.” The Petitioner provided a letter from his supervisor, [REDACTED] Senior Research Manager of [REDACTED] medical solutions division, who stated that the Petitioner’s work involves three primary responsibilities: “1) understanding the impact of manufacturing and/or design changes on material properties and product characteristics, 2) creating novel materials and developing existing materials in order to improve the performance and quality of advanced wound dressing products, and 3) participating in the innovation and creation of new and novel user solutions.” [REDACTED] highlighted the national significance of the Petitioner’s research, pointing out that his work is aimed at improving patient outcomes by developing novel materials for advanced and surgical wound care.

The Petitioner further stated that the proposed endeavor involves his continued work as a researcher at [REDACTED] where he will not only fulfill the above-stated responsibilities, but also publish and present his research findings in peer-reviewed venues. The Petitioner elaborated on his current project, stating that it involves “research on the development of a new porcine hard-to-heal wound model” and corresponding clinical studies whose goal is to provide cost-effective care while improve existing treatment methods and patients’ quality of life.

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).

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

³ As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for him to have a job offer from a specific employer. However, we will consider information about his research position to illustrate the capacity in which he intends to work to determine whether his 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. After reviewing the Petitioner's submissions, such as letters of support from fellow experts in the biosystems engineering field and the support letter from the Petitioner's current employer highlighting the broader benefit and implications of the Petitioner's proposed research, we agree with the Director's determination that Petitioner has demonstrated both the substantial merit and national importance of his 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, his academic records (including his Ph.D. and Master of Science degree), published and presented work, peer review activity, and documentation of numerous articles that cited to his research findings.⁴ In addition, the Petitioner offered reference letters describing his expertise in biosystems engineering, materials evolution, and chemical characterization research and his past record of success in that field. Several expert references identify specific examples of how the Petitioner's research has affected his field. As corroborating documentation regarding the significance of his work, the Petitioner provided evidence showing that his published work has been frequently cited by independent researchers, and that the rate at which his work has been cited is high relative to others in the field. His experience and expertise as a biosystems engineering researcher, published articles, citation evidence, progress in his field, and his current employment with position him well to advance his proposed endeavor. Accordingly, the Petitioner has demonstrated that he 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 biosystems engineering researcher with both a Ph.D. and Master of Science degree, the Petitioner

⁴ "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).

possesses considerable experience and expertise in developing and improving material properties and product characteristics. The record also demonstrates the potential for widespread medical benefits associated with the Petitioner's current research in developing and improving wound care dressing materials. In addition, because the Petitioner has documented his past successes in advancing research relating to materials evolution and chemical characteristics and the significance of his proposed work to advance the quality of patient lives through improved wound care materials, 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.