



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

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

In Re: 30361246

Date: APR. 23, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a research scientist in the field of organic chemistry, 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 did not establish that a waiver of the classification's job offer requirement, 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. Section 203(b)(2)(B)(i) of the Act.

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. 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 discretion,<sup>1</sup> 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 Petitioner is a research scientist in the field of organic chemistry. She earned a doctoral degree in organic chemistry from the [redacted] in Iran. At the time of filing she was employed as a research scientist at the [redacted] in the Food and Drug Administration control laboratory. The Director concluded that she is eligible as a member of the professions holding an advanced degree. Therefore, the sole issue on appeal is whether she is eligible for, and merits as a matter of discretion, a national interest waiver.

### 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 Petitioner proposes “to continue her research on developing green and environmentally friendly synthetic methods for preparing biologically and medically relevant nanomaterials, organic compounds, and carbon dots in order to improve environmental remediation methods, such as wastewater treatment, pollutant absorption, and green chemistry.” Her research focuses on food safety, purification of water pollutants, and synthesis of new compounds and catalysts with biological and medicinal properties. In her decision, the Director concluded that the Petitioner's proposed endeavor was of substantial merit and national importance. Based on our review of the record, we agree. As we noted in *Dhanasar*, endeavors related to research, pure science, and the furtherance of human knowledge may be of substantial merit without any economic benefits. *Id.* In addition, many proposed endeavors aiming to advance STEM technologies and research are of substantial merit. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), [www.uscis.gov/policy-manual](http://www.uscis.gov/policy-manual). Here, the proposed endeavor's substantial benefits to science, including food safety and environmental protection, have been demonstrated through several expert letters and government reports.

To support the national importance of her proposed endeavor the Petitioner submitted evidence of her research on reducing chemical waste in wastewater remediation. This was further supported by letters written by experts in the Petitioner's field, including [redacted] of the [redacted] [redacted] who was her doctoral advisor. The Petitioner additionally submitted White House

---

<sup>1</sup> *See also Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

guidance identifying environmental protection as a crucial element of national security. We agree that this specific evidence of her research shows the national importance of her proposed endeavor.

#### B. Well-Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. To determine whether they are well-positioned to advance the proposed endeavor, we consider factors including, but not limited to: their 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. *Id.* at 890.

The Director determined that the Petitioner did not establish that she is well-positioned to advance her proposed endeavor, but as the Petitioner asserts on appeal, the Director did not sufficiently explain the analysis of the evidence to identify specific reasons for this conclusion. 8 C.F.R. § 103.3(a)(1)(i). Our review of the record shows by a preponderance of the evidence that the Petitioner is well-positioned to advance her proposed endeavor.

As previously noted, the Petitioner earned a Ph.D. in organic chemistry, a STEM field directly related to her proposed endeavor. Since that time, she has worked as a research scientist in this field, gaining advanced skills and knowledge. The results of this research have appeared in journal articles authored by the Petitioner, which have been cited by other researchers in their own published work. Two of her cited papers rank in the top 10% and 20% of most-cited papers in her field, demonstrating her record of success in advancing her proposed endeavor. [REDACTED] head of the [REDACTED] [REDACTED] at the [REDACTED] states in his expert opinion letter that the Petitioner has developed a method of safely and effectively removing methylene blue, which is a carcinogenic, toxic, non-biodegradable and long-term hazardous textile dye, from wastewater. He states that this development allows for increased environmental protection “without disrupting the textile industry’s production process” and contributions to the U.S. economy. In addition, the Petitioner has presented a plan for continuing her research in the areas of food safety, waste and wastewater pollution, biopharmaceuticals, and green chemistry with sustainable development. Considering the totality of this evidence and its support of the nonexclusive second prong factors provided in *Dhanasar*, we conclude that the Petitioner is well-positioned to advance her proposed endeavor.

#### C. Whether on Balance a Waiver is Beneficial

The third prong requires a 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, we may evaluate factors such as: whether, in light of the nature of the individual’s qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) considered must, taken together, establish 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. *Id.* at 890-91.

In her decision, the Director lists the factors to be considered under the third prong of the *Dhanasar* framework but did not fully analyze the Petitioner's statements or evidence submitted in support of the benefits of waiving the labor certification process in her case. On appeal, the Petitioner again refers to an urgent national interest in environmental stewardship and her proposed endeavor in this area, as well her established positioning to advance her proposed endeavor. She also notes an expert opinion from [REDACTED] the founder and chief executive officer of a research company working to improve the sustainability and performance of feed protein for dairy. [REDACTED] discusses the application of the Petitioner's research, using carbon dots as a sensor to detect harmful chemicals, to studying the effects of color additives in food, drugs, cosmetics, and medical products. In addition to these considerations, we note the national importance in reducing the exposure of harmful chemicals to people and the environment, the Petitioner's record of success in her previous research projects, and the interest of other researchers and government agencies in her work. We therefore conclude that the benefits to be provided by her proposed endeavor, even if other U.S. workers are available, outweigh the benefits inherent in the labor certification process, and are therefore sufficient to justify a waiver of the EB-2 classification's job offer requirement.

### III. CONCLUSION

The Petitioner has established her eligibility for a national interest waiver under the *Dhanasar* analytical framework, and we conclude that the waiver is warranted as a matter of discretion.

**ORDER:** The appeal is sustained.