



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

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

In Re: 33387557

Date: SEP. 13, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a researcher within the field of quantum mathematics, 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 had not established eligibility for a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The Director subsequently dismissed a motion to reopen and reconsider and 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 dismiss the appeal.¹

I. LAW

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate 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,² grant a national interest waiver if the petitioner demonstrates that:

¹ Electronic records reflect that USCIS approved a subsequently filed EB-1 visa petition.

² *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third

- 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.

Id.

II. ANALYSIS

The Director determined that the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree. The issue before us is whether the record establishes that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest. Based on our *de novo* review of the record, we conclude the Petitioner has not sufficiently demonstrated eligibility for the national interest waiver because he does not meet the requirements for the first prong of the *Dhanasar* framework.

The first prong in the *Dhanasar* analysis, 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. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner provided business and governmental background materials describing the relevance of quantum mathematics reflecting that the endeavor falls within one or more of the areas contemplated by the substantial merit criteria of the first prong in the *Dhanasar* analysis.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* The Petitioner explained that he will use his “mathematics physics skills to resolve quantum systems and to find optimal solutions for gate synthesis.” At the time of filing the petition, the Petitioner had obtained a masters degree from the [REDACTED], a second masters from the [REDACTED] and was awarded the prestigious [REDACTED] Fellowship. In response to the request for additional evidence (RFE) he submitted documentation to demonstrate that he recently completed his PhD in applied mathematics from the [REDACTED] [REDACTED]. However, the PhD was obtained after filing the petition. The Petitioner must establish all eligibility requirements for the immigration benefit have been satisfied from the time filing and continuing through adjudication. See 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

The Petitioner proposes to continue research into the design and development of propulsion systems for potential use in military and civilian technologies such as nano-satellites, rocket-propelled ballistic missiles and single-stage-to-orbit vehicles. The Petitioner described his intended employment as a researcher as follows:

I am mainly working on algorithms and applications for quantum systems. I am using my mathematics physics skills to resolve quantum systems, and to find optimal

in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

solutions for gate synthesis. This focuses on three key areas which are for the advancement, critical for safety and economic protection of US citizens-solving Quantum information science problems and exploring localization properties necessary for quantum computation.

He explained that quantum computing is a “modern way of computing that is based on the science of quantum mechanics and its unbelievable phenomena. It is a beautiful combination of physics, mathematics, computer science and information theory.” According to the Petitioner, his research would benefit the United States by enhancing national security and defense by allowing the United States to maintain its advantage over other nations in the field of hypersonic flight and in the areas of the civil space sector.

When determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on “the specific endeavor that the foreign national proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. 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.*

In the initial filing, RFE response, and the motion to reopen and reconsider, the Petitioner presented areas where his research will be beneficial to the United States such as: complex manufacturing processes, biology, evolution, developing a cure for cancer, taking steps to reverse climate change, and improvements to more reliable navigation and timing systems, communications and more accurate healthcare imaging. He also provided governmental reports on the importance of quantum science and articles regarding the speed of quantum computing. However, the record lacks specific details as to how he will conduct his research in the general areas where he asserts quantum mathematics is beneficial and also how his own research would impact these various fields. The Petitioner’s broad statements about the various issues of concern that he plans to address and general information about quantum science offer little insight into the specific endeavor that he intends to pursue in the United States.

The expert letters from current and former colleagues included in the record outline the Petitioner’s past work accomplishments and the government’s interest in his research, but only vaguely mention his future endeavors. The Director of the [] notes that the Petitioner’s “exceptionally broad research is rooted in his training in the application of mathematical physics theories that address a wide spectrum of quantum challenges.” She continues “His research represents a vital stride in the ability to perform simulations on ‘Noisy Intermediate Scale Quantum’ (NISQ) processors - the current quantum processors that are heavily prone to errors and noise.” Another recommendation letter from a preeminent expert in quantum software and systems stated that the Petitioner’s quantum error correction (QEC) techniques he developed ensure the accuracy of quantum computations which is particularly vital because quantum computers aim to tackle complex problems such as optimization, cryptography and materials science. This expert also explained that the Petitioner’s “work in quantum error correction aligns with the overarching goal of securing quantum-secure communication channels and that by eliminating errors and vulnerabilities in these systems, his research fortifies the integrity and confidentiality of quantum-secure communication.” The expert contends that the Petitioner’s research is nationally important because it enhances the protection of classified data and ensures secure

military communication. While these and other letter writers hold the Petitioner in high regard, the submitted letters do not substantiate the nature of the specific endeavor that the Petitioner intends to engage in or explain the Petitioner's work with sufficient specificity to make clear the national importance of his proposed work under the *Dhanasar*'s first prong.

Although the Petitioner contends that the record demonstrates the importance of various national and government initiatives to bring talent to the field of quantum computing and the role this discipline will play in the country's infrastructure and security, the matter here is not whether these initiatives are nationally important. Rather, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of conducting research in quantum mathematics.³

We conclude that without more information about the specific proposed endeavor and details about how the Petitioner will apply his knowledge and experience in the United States, the Petitioner has not established his proposed endeavor sufficient for us to determine that his work in the United States will have national importance. 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. It is the Petitioner's burden to prove by a preponderance of evidence that it is qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.* The Petitioner has not done so here.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits 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.

³ The Petitioner's arguments and evidence relate to the substantial merit aspect of the proposed endeavor rather than the national importance part.