U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40999728

Date: FEB. 13, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a postdoctoral researcher, 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).

Service Center Operations (SCOPS) denied the petition, concluding the record did not establish 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 pursuant to 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.

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. *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,[1] grant a national interest waiver if the petitioner demonstrates that: (1) the proposed endeavor has both substantial merit and national importance; (2) the individual is well-positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer requirement would benefit the United States. *Id.*

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

II. ANALYSIS

SCOPS determined that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional but that she did not establish her eligibility under the *Dhanasar* analytical framework. SCOPS' decision did not contain a determination as to whether the Petitioner satisfied *Dhanasar's* first prong. However, it did find that the Petitioner did not establish that she is well positioned to advance the proposed endeavor and that, on balance, waiving the job offer requirement would be beneficial to the United States under *Dhanasar's* second and third prongs.

For the reasons discussed below, we conclude that the evidence supports the Petitioner met the first prong. However, as we agree with SCOPS that the Petitioner has not established that she is well positioned under the second prong, the Petitioner has not established her eligibility for a national interest waiver. Accordingly, we will dismiss the appeal.[2]

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. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

The Petitioner states her proposed endeavor is "to continue her work in biomedical and biological sciences research and their clinical applications through studies in cancer biology, anti-viral immunology, immunotherapy, and COVID-19 nanoparticle vaccine, allowing new provisions of laboratory medicines to the science and clinical community." In her personal statement submitted in response to SCOPS' Request for Evidence (RFE), she stated that in her current work as a postdoctoral researcher at the [redacted], she specializes in translational research aimed at engineering more potent and durable chimeric antigen receptor T cell (CAR T) therapies for cancer. She claims her future research studies "will involve enhancing CAR T cell fitness using novel epigenetic reprogramming factors and developing a drug-regulatable platform to optimize CAR safety and efficacy."

Upon review and considering the totality of the evidence submitted, the Petitioner has sufficiently shown the substantial merit and national importance of her proposed endeavor. Therefore, we conclude that the Petitioner meets this prong.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Id.* at 890. 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

[2] As we agree with SCOPS that the Petitioner has not established she is well positioned to advance her proposed endeavor under *Dhanasar's* second prong, and this issue is dispositive of the appeal, SCOPS' lack of a prong one finding does not affect the outcome of the decision. This is true even more so, here, where we have determined that she meets prong one.

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.*

SCOPS concluded that the Petitioner did not sufficiently establish that she was well positioned to advance her proposed endeavor. On appeal, the Petitioner resubmits previously provided documents and argues that SCOPS did not adequately consider the evidence. She highlights her educational history and experience and reiterates her record of publications supported by federal funding, evidence of citations and implementation of her work by other scientists, and registered patents. She asserts that the evidence submitted demonstrates she is well positioned to advance her proposed endeavor. Upon our de novo review of the record, however, we agree with SCOPS' conclusion that the record does not establish the Petitioner met her burden to show she satisfies this prong.

With regard to her education, skills, knowledge, and record of success, the Petitioner holds a master's degree in microbiology. The record also shows that she obtained a Doctor of Natural Science degree in microbiology, which is the foreign equivalent of a U.S. Doctor of Philosophy (Ph.D.) degree, in June 2022. Although the Petitioner's advanced degrees in a STEM field are positive factors, they are not a sufficient basis in themselves to determine that she is well positioned to advance the proposed endeavor. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual. Rather, we look to a variety of factors and education is merely one among many that may contribute to such a determination.

The Petitioner also contends that her "superior publication and citation records" evidence her record of success in related projects. The record shows that, at the time of filing, she had published 10 papers between the years 2016 to 2022 with a total of 803 citations.[3] The highest cited article, which was published in 2021, had 313 citations. The second and third highest cited articles, which were both published in 2020, had 209 and 179 citations respectively. Her remaining articles at most had 27 citations or less. At the time of her RFE response, her total citation count had increased to 986 citations, with the three highest cited articles now reflecting 413, 261, and 185 citations respectively. Her remaining articles at most had 35 citations or less.[4]

The Petitioner argues that the citations for several of her publications are among the top 0.01-1% of researchers in the field of biology and biochemistry, as well as in immunology. But, the record also does not indicate how many citations were self-citations by her or her co-contributors, and the Petitioner did not indicate whether she factored in any self-citations in determining these percentile rankings. Additionally, we note that citation frequency which is quantitative in nature does not reveal the reasons for citations, which involve a qualitative analysis. In other words, a high citation number might show that others in the field have noticed the Petitioner's work, but it does not confirm that her work has impacted or advanced the field of endeavor in such a way that renders her well positioned.

[3] The record also reflects the Petitioner co-authored two conference papers in 2017.

[4] The Petitioner argues that her citation count increased to 1364 times by the time of her appeal. She contends that this updated figure represents a 95.44% increase in citations over the course of one year and evidences her record of success and influence in her field. While we acknowledge her claim, eligibility must be established at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971). Moreover, even considering these citation counts, as noted above, the record presently lacks evidence that her work has impacted or influenced the field of endeavor.

See generally 6 *USCIS Policy Manual*, *supra*, at F.5(D)(4) (noting that, while the second prong considers "documentation demonstrating a strong citation history of the person's work," it also looks to "excerpts of published articles showing positive discourse around, or adoption of, the person's work," as well as "evidence that the person's work has influenced the field of endeavor").

Here, despite the number of citations, the Petitioner has not demonstrated through sufficient documentation in the record that her research has influenced the field of endeavor, to demonstrate the significance of her work and to show that her work constitutes a record of success or a level of interest in her work from relevant parties sufficient to meet *Dhanasar's* second prong. And while we acknowledge that the Petitioner's articles have been cited by others, researchers throughout a given field may cite other published works without the cited work being notably influential or serving as a foundational basis for their own work. Even though others within the Petitioner's field may have cited her research findings within their own work, this is not sufficient to demonstrate that she has made contributions of major significance within the field.

As it relates to her peer review activity, the Petitioner provided documentation evidencing her review of several articles for various journals such as Biomedicine & Pharmacotherapy, BMC Bioinformatics, and Frontiers in Genetics. The Petitioner, however, did not adequately establish the significance of her review experience or demonstrate that her occasional participation in the widespread peer review process represents a record of success in her field or that it is otherwise an indication that she is well positioned to advance her endeavor.

Regarding the Petitioner's model or plan for future activities, progress toward achieving the proposed endeavor, and interest of potential customers, users, investors, or other relevant entities, we similarly conclude that the evidence in the record does not demonstrate that the Petitioner is well positioned to advance the endeavor. Aside from referencing her current work as a postdoctoral researcher at [redacted] and her general aspirations "to continue my research and make a significant impact in the field through the development of innovative and effective cancer therapies," she has not described how she specifically intends to continue her proposed work in the United States, particularly after her time limited fellowship ends. In the case of a petitioner who does not intend to be self-employed, we consider a job offer or communications with prospective employers, while not required, to be relevant to demonstrate the circumstances or capacity in which the person intends to carry out the endeavor and the feasibility of that plan. *See generally* 6 *USCIS Policy Manual, supra,* at F.5(D)(3). Here, while the record contains a letter from the Immigration Specialist at [redacted] confirming that the Petitioner is currently a full-time research postdoctoral fellow in the Department of Pediatrics at [redacted], the author does not indicate that [redacted] intends to continue to employ, or otherwise facilitate or fund the Petitioner's own research. Without further explanation or documentary evidence to show how the Petitioner plans to pursue her proposed endeavor in the future, the record does not adequately support a finding that she is well positioned to advance it.

In addition, although the Petitioner contends there is a "high degree of interest" in her work shown through funding for similar projects from federal government parties such as the National Institutes of Health (NIH), the record does not support this claim. The evidence does not reflect that the Petitioner was named as a grant recipient or otherwise show that the Petitioner, as opposed to her university, her advisor, or [redacted] for example, has received any funding for her research proposals or future projects. By contrast, in *Dhanasar*, we noted that the petitioner had received "consistent" government funding

of research projects in which he played a "significant" role. *Matter of Dhanasar*, 26 I&N Dec. at 892. He also "initiated" or was "the primary award contact on several funded grant proposals," and he was "the only listed researcher on many of the grants." *Id.* at 893, n.11.

Likewise, while the Petitioner points to her patents and contends that her works were "extensively reported by many mainstream and scientific media," the record again does not reflect how her research has influenced the field or represents or a level of interest in her work from relevant parties sufficient to meet *Dhanasar's* second prong.[5]

We have also considered the Petitioner's support letters, but they do not adequately show how the Petitioner's research has influenced the field of endeavor, to demonstrate the significance of her work and show that her work constitutes a record of success. The letters generally provide descriptions of the Petitioner's various research projects and broadly state, for instance, that the Petitioner's work has had "a profound impact on the fields of biomedical and biological sciences research" and that she "has contributed groundbreaking scientific insights and discoveries that satisfy the urgent needs of the scientific community of cancer immunotherapy research." But, the letters lack specificity to support their assertions and do not elaborate on or sufficiently explain how the Petitioner's research has been utilized in the field or otherwise constitutes a record of success, well positioning her to advance her proposed endeavor.

For example, [redacted], an associate professor and group leader at [redacted], states that the Petitioner's "innovative findings have provided the academic and clinical medicine community novel and deep insights into the generation of human CD8+ TSCM cells and revealed a novel clinical application of IL-21." He also states that this research is "a breakthrough that has been underlined and followed by many of our peers" and "has opened a new direction for T-cell-based immunotherapy research." But, beyond these generalized assertions, he does not further elaborate on or sufficiently explain how the Petitioner's work has influenced the field or industry. And although he also mentions that he and another researcher have used the Petitioner's work in their own papers, he does not offer examples of how the Petitioner's work has been implemented or utilized in the field beyond having been cited by others in their published works, or otherwise represents a record of success or progress.

Because the Petitioner has not demonstrated she is well positioned to advance her proposed endeavor under *Dhanasar's* second prong, she has not shown that she is eligible for a national interest waiver. Analysis of her eligibility under *Dhanasar's* third prong, therefore, would serve no meaningful purpose. Consequently, we will reserve those remaining issues and arguments. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

[5] The Petitioner claims that she "currently holds U.S. patents on immunological therapy methods for human diseases," but this claim is not supported by the record. The evidence submitted contains documentation related to two patents, neither of which appear to have been approved. One document is an excerpt from Espacenet listing the Petitioner as a co-inventor on a *Chinese* patent for "[redacted]" The second document is an excerpt of a patent application entitled "Composition, culture medium and method for inducing and/or amplifying TSCM in vitro," but the Petitioner is not listed as an inventor or co-inventor on the patent.

III. CONCLUSION

As the Petitioner has not met the requisite second prong of the *Dhanasar* analytical framework, she has not established that she is eligible for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.