U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40786858

Date: JAN. 08, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a graduate student research assistant in biomedical engineering, 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 that the record did not establish that a waiver of the job offer requirement is 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] *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).

- 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 Petitioner, a graduate student research assistant at the [redacted] described her proposed endeavor as "[continuing] her research on developing and applying photoacoustic imaging[2] modalities in clinical settings in order to improve diagnoses and prognoses for conditions such as rheumatoid arthritis and inflammatory bowel disease." The Petitioner further stated that she will collaborate with clinicians, medical professionals, and industrial professionals to "develop novel photoacoustic imaging techniques to visualize and monitor the progression of prevalent diseases"; "investigate the application of photoacoustic imaging in accessing the disease activity and treatment response in patients"; and "publish original biomedical engineering research in peer-reviewed journals and conferences." The Petitioner claimed that she will pursue her proposed endeavor "while earning my Ph.D. from the [redacted] and "[u]pon completion of my degree, I intend to pursue a position as a postdoc at the [redacted]."

We agree with SCOPS' conclusion that the Petitioner qualifies for the EB-2 classification as an advanced degree professional as the record shows that she has a master's degree in biomedical engineering from [redacted] The remaining issue is whether the Petitioner has demonstrated eligibility under the *Dhanasar*'s analytical framework. Upon review, we conclude that the Petitioner met the first prong of *Dhanasar* by showing that her proposed endeavor has both substantial merit and national importance, but the record does not sufficiently demonstrate that she is well-positioned to advance the proposed endeavor under the second prong.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. An endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, sciences, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. Based upon the probative and credible evidence in the record regarding medical imaging to enhance disease management, diagnostic accuracy, and prognostic proficiency, as well as the potential for further research and development in this area to broadly impact the field of medical technology, the Petitioner's proposed endeavor has both substantial merit and national importance.

However, the Petitioner has not sufficiently demonstrated that she is well-positioned to advance the proposed endeavor under the second *Dhanasar* prong. The second prong shifts the focus from the proposed endeavor to the individual petitioner. To determine whether an individual is 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

[2] The Petitioner explains that photoacoustic imaging is "a radiological technique that produces detailed 3D tissue images by measuring sound waves generated from light absorption" and "combined the strengths of optical excitation and acoustic detection, providing clear and specific contrast for molecules and high spatial resolution."

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.

We first consider the factors regarding the Petitioner's education, skills, knowledge, and record of success. *Id.* The Petitioner obtained a bachelor's degree in electronic science and technology from [redacted] in 2019 and a master's degree in biomedical engineering from [redacted] in 2021. After obtaining her master's degree, the Petitioner has been working as a graduate student research assistant at the [redacted] performing research on the topic of photoacoustic imaging systems. The Petitioner's co-authored peer-reviewed journal articles explore topics such as brain imaging of hemodynamics and oxygenation at micro-vessel resolution with ultrafast wide-field photoacoustic microscopy; longitudinal volumetric assessment of inflammatory arthritis via photoacoustic imaging and Doppler ultrasound imaging; automatic 3D ultrasound and photoacoustic combined imaging system for human inflammatory arthritis; and photoacoustic microscopy of mouse brain actions. These articles show that she has developed skills and knowledge that would be useful in continuing her research.

Regarding the Petitioner's record of success in related or similar efforts, the evidence appears to demonstrate that the published work that the Petitioner has contributed to has been cited frequently by independent researchers at a rate that is high relative to others in the field. However, we do note that the Petitioner did not yet possess a Ph.D. in the field as of the time of filing.[3] We consider an advanced degree, particularly a Ph.D., in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology an especially positive factor to be considered along with other evidence in assessing the second prong. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual.

Additionally, the Petitioner submitted two recommendation letters, one from Dr. X-W-, a professor at the [redacted] and another from Dr. C-K-, a professor at [redacted] Dr. X-W- indicated that she works alongside the Petitioner in the Optical Imaging Laboratory at the [redacted] and explained that her research is significant because it will advance "US-PA [ultrasound and photoacoustic] dual imaging technology for the clinical management of arthritis" and facilitate early treatment of patients and personalized therapeutics for rheumatology clinics. Dr. C-K- who cited to one of the Petitioner's co-authored journals in his own paper stated that the Petitioner's research "is of great significance, having developed a system that combines high speed imaging, a large field of view, and excellent spatial resolution." However, the letters merely claim significance of her work and explain the mechanics of her research but do not sufficiently demonstrate how the Petitioner's work has been utilized in the field or otherwise constitutes a record of success beyond having been cited by others in their published works.

The next factors applicable to the second prong of the *Dhanasar* framework are the petitioner's model or plan for future activities and any progress toward achieving the proposed endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 890. The Petitioner claimed that she intends to pursue a postdoctoral at Caltech. In response to SCOPS' request for evidence (RFE), the Petitioner submitted an updated

[3] The Petitioner obtained her Ph.D. in biomedical engineering from the [redacted] in September 2025, approximately two years after the filing of the petition on November 30, 2023.

proposed endeavor statement indicating that she has been "in communication with faculty researchers at [redacted]" and "exploring opportunities to join a lab that focuses on translational imaging and interventional technologies." But at the same time, the Petitioner indicated that she is also "exploring collaborations with clinical researchers at major U.S. medical centers such as Massachusetts General Hospital (MGH), Mayo Clinic, and Cleveland Clinic" and "networking with industry leaders in the biomedical imaging field . . . such as GE HealthCare, Verasonics, and FUJIFILM VisualSonics" who expressed interest in her research during conferences and informational interviews for any employment offers or opportunities.

While the Petitioner states her intention to pursue a permanent position as a postdoctoral researcher, the record does not contain evidence, other than the Petitioner's own statement, related to obtaining this position, such as a job offer letter or other information about the position. With the RFE response, the Petitioner submitted other plans regarding her future activities that include employment with biomedical industries or clinics, but she did not provide evidence of any contacts or communications with Caltech or any other universities, companies, or clinics that would demonstrate interest in or support the Petitioner's proposed endeavor and provide her with a position.

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, the Petitioner's stated intention for advancing her endeavor requires an offer of employment. Therefore, the fact that the Petitioner has not provided documentary evidence of pursuing this employment or any specific steps taken toward achieving employment is a negative factor in this instance. By contrast, the petitioner in *Dhanasar* demonstrated that he was already employed as a postdoctoral research associate at a university, was performing research and development related to his proposed endeavor at this university, and intended to continue to do so. *See Dhanasar*, 26 I&N Dec. at 891. We therefore conclude that the evidence in the record related to the Petitioner's model or plan for future activities and her progress towards achieving the proposed endeavor does not support a finding that the Petitioner is well-positioned to advance it.

The final factor enumerated in *Matter of Dhanasar* relates to evidence of interest from potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890. Here, we similarly conclude that the evidence in the record does not weigh in favor of demonstrating that the Petitioner is well-positioned to advance the endeavor. In support of this factor, the Petitioner claimed that her research has been supported by grants from various government entities and foundations, such as the National Institutes of Health, the American Heart Association, the National Geographic Society, or the National Science Foundation. Although the copies of publications she has co-authored indicate in the acknowledgements section that the research was supported by grants or awards from these agencies, the record does not establish the parameters of these grant awards or show whether the Petitioner applied for and received this funding for her research. By contrast, in *Dhanasar*, we noted that the petitioner had received "consistent" government funding of research projects in which he played a "significant" role, specifically that he initiated or was the primary award contact on several funded grant proposals and was the only listed researcher on many of the grants. *Id.* at 893, Fn. 11. Here, we are unable to tell the Petitioner's role, if any, in obtaining the funding, and therefore whether such funding indicates any interest from relevant agencies in the Petitioner pursuing the proposed endeavor.

The evidence in the record regarding the Petitioner's funding does not appear to be similar in kind to the funding received by the petitioner in *Matter of Dhanasar*.

On appeal, the Petitioner asserts that SCOPS erred by imposing additional factors outside of *Dhanasar* by requiring her research to have "served as an impetus for progress in the field of industry," "affected the industry or the occupation in some way,' or "generated positive discourse in the community." However, we do not find that SCOPS' statements constitute an abuse of discretion as the Petitioner claims. Here, SCOPS properly applied *Dhanasar*'s second prong factors and evaluated the evidence to determine whether the Petitioner has demonstrated a record of success or progress in her endeavor. Such demonstration requires the Petitioner to submit evidence of her research's reach and influence. While we agree that *Dhanasar* did not specifically mandate a showing of influence as a factor to consider whether a petitioner is well-positioned to advance her proposed endeavor, the decision also did not limit the factors we may consider. *See id.* at 890 (identifying factors we consider under the second prong as "including, but not limited to"). In fact, in finding that the petitioner in *Dhanasar* was well positioned, we relied on, in part, "the significance of the petitioner's research in his field" as corroborated by evidence of peer and government interest in his research and consistent government funding on his research projects. *Id.* at 893.

Moreover, SCOPS' assessment of the evidence under *Dhanasar*'s second prong is consistent with USCIS policy guidance, which identifies evidence of whether the person's work has influenced the field of endeavor as relevant evidence that may demonstrate a petitioner is well-positioned to advance their proposed endeavor. *See generally* 6 *USCIS Policy Manual*, *supra,* at F.5(D)(1) (providing, as guidance, many examples of evidence that may demonstrate a person is well-positioned to advance their proposed endeavor). SCOPS identified the relevant evidence submitted and sufficiently analyzed the overall record under the applicable preponderance of the evidence to conclude that the Petitioner has not shown that her research has affected the field or industry to demonstrate a record of success or progress in advancing photoacoustic imaging methods in the field of medical technology.

The Petitioner also contends that SCOPS imposed "a novel exclusion that applies only to students" but we do not find the Petitioner's arguments persuasive. SCOPS' decision stated that "the body of [the Petitioner's] research was not independent but a necessity to fulfil requirements for school" or "[the Petitioner] has not, as of date, demonstrated her capabilities in conducting research apart from the mentorship and leadership of more senior faculty members." Here, SCOPS properly analyzed the record based on the factors laid out by *Dhanasar*, such as the Petitioner's "skills, knowledge, and record of success" and in doing so, assessed that the Petitioner's status as a graduate student researcher was a limiting factor in terms of her research's autonomy and range.

Not every individual who has conducted original research, published findings, and provided peer review service will be found to be well-positioned to advance their proposed endeavor. Rather, we must examine the factors set forth in *Matter of Dhanasar* to determine whether, for instance, the individual's education, skills, and record of success, their model or plan for future activities, their progress towards achieving the proposed endeavor, and the generation of interest among relevant parties supports such a finding. *Id.* at 890. In sum, the Petitioner's knowledge and skills, as demonstrated by her education, publication, and citation record, are positive factors. However, they are not sufficient to overcome the lack of evidence demonstrating the Petitioner's record of success in related efforts, model or plan for future activities, her progress toward achieving the endeavor, or interest from potential investors or other relevant entities.

Therefore, we conclude that the Petitioner has not established that she meets the second prong of *Dhanasar* of being well-positioned to advance her proposed endeavor. As such, we decline to reach and hereby reserve our opinion regarding the Petitioner's eligibility under the third *Dhanasar* prong. *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).

III. CONCLUSION

The Petitioner has not met the requisite second prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established 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.