U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40494340

Date: JAN. 13, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a graduate student researcher in epidemiology, 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 Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she had not established 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 meets the EB-2 classification as an advanced degree professional as the Petitioner has a master's degree in epidemiology from [redacted]. The remaining issue to be discussed is whether the Petitioner meets the eligibility requirements of a national interest waiver. SCOPS concluded that the Petitioner's proposed endeavor has both substantial merit and national importance, and she is well-positioned to advance her proposed endeavor, but the record did not demonstrate that on balance, waiving the job offer requirement would benefit the United States.

A. Whether the Proposed Endeavor Has Substantial Merit and National Importance

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. *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Petitioner describes her proposed endeavor as follows:

> My proposed endeavor is to apply big data and advanced statistics to identify biomarkers of aging and genome integrity in cancer development in order to advance medical knowledge, develop effective therapeutic strategies for cancer, and improve patient outcomes. . . .
>
> I plan to continue pursuing my proposed endeavor while earning my Ph.D. from [redacted] At [redacted] my work includes investigating biomarkers of genome integrity in lung cancer patients. I employ advanced bioinformatics analyses to study the relationships between genetic variants and gene expression with functional impairments of DNA repair capacity. I also conduct complicated longitudinal and survival analyses to examine telomere length dynamics and functional biomarkers of DNA repair in lung cancer patients during radiotherapy and their relationships with radiotherapy side effects. Moreover, I apply statistical genetics and causal inference to determine causal relationships between the DNA repair capacity impairments and the long-term survival of lung cancer patients. . . .
>
> Upon the completion of my degree, I intend to pursue a position as a postdoctoral researcher at [redacted] My planned research topics include pan-cancer analysis for molecular signatures of genome integrity impairments and identifying intervention targets for the prognosis of aging-related diseases and cancer.

Based upon the probative and credible evidence in the record regarding the Petitioner's research on investigating biomarkers of aging and genome integrity in cancer development in order to advance medical knowledge, develop effective therapeutic strategies for cancer, and improve patient outcomes to broadly impact the field of cancer research, we agree with SCOPS that the Petitioner's proposed endeavor has both substantial merit and national importance.

B. Whether the Petitioner Is Well-Positioned to Advance the Proposed Endeavor

Upon de novo review, we conclude that the Petitioner did not sufficiently demonstrate that she is well-positioned to advance the proposed endeavor and therefore withdraw SCOPS' finding on the second prong.

While the first prong of the *Dhanasar* framework focuses on the proposed endeavor and whether it has substantial merit and national importance, the second prong shifts the focus to the individual petitioner and whether they are well-positioned to advance it. 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 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, and knowledge. The Petitioner obtained a master's degree in epidemiology in 2021 and has been a doctoral student in public health since 2023. On Form ETA 9089, Application for Permanent Employment Certification, the Petitioner indicated that she is a student researcher who works 10 hours a week performing research "in the field of environmental and molecular epidemiology focusing on lung cancer prognosis." We note that the Petitioner did not possess a Ph.D. in her field when she filed the instant petition in 2024. 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.

Regarding the record of success in related or similar efforts, we conclude that 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. Also, her published research and peer review service show that the Petitioner has developed skills and knowledge that would be useful in continuing her research. However, the Petitioner co-authored these articles as a student working towards her master's degree or her doctoral degree and the evidence does not show that she was the principal investigator in any of these articles. Also, it is the nature of scientific research to produce new knowledge and not every productive researcher will qualify for the national interest waiver unless a preponderance of evidence demonstrates eligibility under *Dhanasar* prongs. *Matter of Dhanasar*, 26 I&N Dec. at 890.

The Petitioner claimed that she received such demonstrated interest because her co-authored journals received funding from various organizations, such as the National Natural Science Foundation of China, the National Key Technology Research and Development Program of the Ministry of Science and Technology of China, the National Cancer Institute, the National Institute of General Medical

Sciences, the National Institutes of Health, and the U.S. Environmental Protection Agency. However, we conclude that the record does not sufficiently support this assertion. 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; for example, the record does not 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 various grants and awards,[2] and therefore whether this funding indicates any interest from relevant agencies in the Petitioner pursuing the proposed endeavor. The evidence in the record regarding the Petitioner's funding from government agencies does not appear to be similar in kind to the funding received by the petitioner in *Matter of Dhanasar*.

Regarding the petitioner's model or plan for future activities and any progress toward achieving the proposed endeavor, we also similarly conclude that the evidence in the record does not demonstrate that the Petitioner is well-positioned to advance the endeavor. In describing the future activity, the Petitioner indicated that her plan is to "continue conducting research at [redacted] or a similar employer" as a postdoctoral researcher and her research into the biomarkers of genome integrity in lung cancer patients "will continue to be circulated to others in the field through the publication of papers in peer-reviewed journals and conferences."

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 *Matter of 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 Matter of Dhanasar* at 891.

Another consideration is the progression of the Petitioner's career at the time she filed the petition. Her proposed endeavor, as originally described, involved seeking a postdoctoral position. When she filed the petition, the Petitioner was still a graduate student, not yet eligible to hold a postdoctoral position. Thus, the Petitioner's proposed endeavor was, in part, to pursue further training at a future time when she becomes eligible for that training. 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 Petitioner has not established that, as a student, she was well-positioned to engage in activities for which she had not yet obtained the necessary credentials and qualifications. On appeal, the Petitioner relies primarily

[2] In response to the RFE, the Petitioner submitted a letter from an associate professor of genomics and cancer biology at [redacted] who collaborated with the Petitioner in co-authoring publications. In discussing journal articles funded by the National Institute of Environmental Health Sciences of the National Institute of Health in 2018, the professor acknowledged that the Petitioner "was not mentioned in the funding documentation for this grant."

upon the evidence she previously submitted and contends that the future research she will perform is a continuation of her prior research. However, the Petitioner has not explained in detail how she intends to continue her research as a postdoctoral researcher, how much time will be spent on various research topics, and plans for garnering funding.

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. The Petitioner's knowledge, skills, and record of success in related efforts, as demonstrated by her education, publication history, citation record, and peer review service, are positive factors. However, they are not sufficient to overcome the lack of evidence demonstrating the Petitioner's model or plan for future activities, her progress toward achieving the endeavor, or interest from potential investors or other relevant entities. In considering the record in totality, we conclude that the Petitioner has not established that she is well-positioned to advance the proposed endeavor.

C. Whether, on Balance, Waiving the Job Offer Requirement Would Benefit the United States

The third prong requires a petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirement of a job offer and thus of a labor certification. *Id.* at 890-91. 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. *Id.* 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 891.

On appeal, the Petitioner contends that SCOPS misapplied the third *Dhanasar* prong factors by failing to evaluate the totality of the evidence or ignoring the submitted evidence. We acknowledge that SCOPS' discussion of the third prong is confusing and lacks sufficient analysis. However, upon de novo review, we agree with SCOPS' ultimate conclusion that the Petitioner has not established her eligibility under the factors identified in *Dhanasar.*

The Petitioner initially stated that her endeavor "holds significant value" for national health because she possesses a specialized degree and has co-authored several research articles that received a comparatively high number of citations from other researchers in the field. In addition, the Petitioner asserted that her proposed endeavor involves critical and emerging technologies and that there is "a particularly urgent national need" for her research on identifying biomarkers for aging and genome integrity in cancer development due to the large number of people diagnosed with cancer. On appeal, the Petitioner merely reiterates these claims and does not provide other supporting evidence. The Petitioner also does not argue that it would be impractical for her to secure a job offer. By statute, researchers are presumptively subject to a job offer requirement, either with a labor certification under section 203 (b)(2) of the Act, or without, under section 203 (b)(1)(B) of the Act. The Petitioner has

not met her burden of proof to demonstrate that she qualifies for an individual exemption from this broad requirement.

Although the evidence indicates that the proposed endeavor has national importance, the Petitioner has not established that the national interest in her contributions is sufficiently urgent to warrant forgoing the labor certification process. As stated above, the Petitioner has not demonstrated that she is well-positioned to advance her proposed endeavor under the second *Dhanasar* prong. The record does not adequately demonstrate the existence of her postdoctoral position or what it entails, or show that she served in a leading role in research repeatedly funded by government agencies, similar to the petitioner in *Matter of Dhanasar*. The Petitioner offered a letter from a professor at [redacted] praising her skills and accomplishments as a student researcher and her citation records showing positive factors for advancing her proposed endeavor, but the record lacks evidence indicating that the national interest in the Petitioner's work is so urgent it could not wait for her to obtain a labor certification.

Our precedent decision states that in order to establish eligibility for a national interest waiver, a petitioner must go beyond showing expertise "significantly above that ordinarily encountered" in their field. *Matter of Dhanasar*, 26 I&N Dec. at 886, n.3. Here, the record does not sufficiently demonstrate that at this point in her career the Petitioner has achieved that level of expertise, despite that her proposed endeavor involves an important area of research. We therefore conclude that, taken together, these factors do not 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.

III. CONCLUSION

We withdraw SCOPS' findings regarding the second *Dhanasar* prong; upon de novo review, we conclude that the Petitioner has established both the substantial merit and the national importance of the proposed endeavor but that she has not established that she is well-positioned to advance it. We further conclude that the Petitioner has not demonstrated eligibility under the third *Dhanasar* prong. As such, the Petitioner is not eligible for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

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.