U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37872636

Date: JUL. 07, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a postdoctoral fellow working in the biomedical field, 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 section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish the Petitioner was eligible for a national interest waiver. 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, petitioners must establish they are advanced degree professionals or individuals of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If petitioners establish 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:

- 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.

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

II. ANALYSIS

SCOPS determined the Petitioner qualifies for the underlying EB-2 immigrant classification as an advanced degree professional. Therefore, the remaining issue is whether the Petitioner has established eligibility for a national interest waiver under the Dhanasar framework.

The Petitioner intends to research and develop novel vaccines, antibody-drug conjugate therapies, and metabolic interventions to enhance cancer prevention and treatment methods. At the time of filing, the Petitioner was a postdoctoral fellow at the [redacted] and indicated that he intends to continue in this role to conduct research and circulate his findings through peer-reviewed publications. Based on the evidence in the record corroborating the prospective broad impact of the Petitioner's research in improving cancer prevention and treatment methods, SCOPS concluded that he demonstrated both the substantial merit and national importance of his endeavor. However, SCOPS nonetheless determined that he was not eligible for the requested national interest waiver because the record did not demonstrate that he is well positioned to advance his proposed endeavor, or that, on balance, it would be beneficial to the United States to waive the job offer requirement and thus a labor certification.

We agree that, while the record establishes both the substantial merit and national importance of the Petitioner's proposed endeavor, he has not demonstrated that he is well positioned to advance his endeavor under Dhanasar's second prong. The second prong shifts the focus from the proposed endeavor to the individual. Matter of Dhanasar, 26 I&N Dec. at 890. To determine whether a petitioner 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.

On appeal, the Petitioner relies on Buletini v. INS, 850 F. Supp. 1222 (E.D. Mich. 1994) to assert SCOPS abused its discretion by insufficiently analyzing all the evidence. However, the Buletini decision does not suggest that it would be an abuse of discretion if USCIS does not provide individualized analysis for each piece of evidence. Moreover, here, SCOPS' decision did discuss the evidence directly relating to the Petitioner's past experience, such as his publications in the field and letters of recommendation, and provided an explanation as to why this evidence did not sufficiently establish the Petitioner's past record of success or otherwise demonstrate his plans for future activities

[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).

to demonstrate that he is well positioned to advance his endeavor. When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the Petitioner presents. See Ren v. USCIS, 60 F.4th 89, 97 (4th Cir. 2023); Guaman-Loja v. Holder, 707 F.3d 119, 123 (1st Cir. 2013) (citing Martinez v. INS, 970 F.2d 973, 976 (1st Cir. 1992); Kazemzadeh v. U.S. Atty. Gen., 577 F.3d 1341, 1351 (11th Cir. 2009).

The Petitioner also claims that SCOPS evaluated the evidence under the criterion for aliens of extraordinary ability, requiring the Petitioner to establish original contributions of major significance.[2] As an example of this, the Petitioner cites to language contained in the decision indicating that the Petitioner had not shown his past work served as "an impetus for progress in the field [or] otherwise demonstrates his work constitutes a record of success" or that he demonstrated he had "a significant contribution over other participants [in his research] or that his research was created solely." However, in these instances relied upon by the Petitioner, SCOPS was properly analyzing whether his claimed past success established whether he was well positioned to advance his endeavor. See generally 6 USCIS Policy Manual F.5(D)(1), https://uscis.gov/policymanual (providing, as guidance, evidence of a person's record of success, influence in the field, contributions significant to the field are examples that may demonstrate a person is well-positioned to advance their proposed endeavor).

The Petitioner further asserts SCOPS mischaracterized, diminished, or ignored the evidence in the record, and did not properly apply the preponderance of the evidence standard applicable to these proceedings. He claims that the record contains ample evidence of his "advantageous position to pursue his endeavor," including evidence demonstrating his academic credentials, peer-reviewed publications and resulting citation record, his own peer review activity, and letters of recommendation discussing the impact of his research. In particular, the Petitioner emphasizes that his citation record and peer review activity are significant and illustrate both his "rich experience in biomedical science and the great respect his work has earned him in his field," and contends that SCOPS improperly diminished the probative value of the recommendation letters contained in the record discussing his past research and publications. However, based on our de novo review, SCOPS applied the proper standard of review and, for the reasons discussed below, the Petitioner has not met his burden in establishing he is well positioned to advance his proposed endeavor by a preponderance of the evidence.

The Petitioner's education, skills, and knowledge are positive factors in support of his position to advance the proposed endeavor. Matter of Dhanasar, 26 I&N Dec. at 890. The Petitioner has demonstrated that he holds the foreign equivalent of a U.S. doctorate degree in biomedical sciences, which relates to his proposed research. However, a degree is one factor we consider in determining whether a person is well positioned to advance the proposed endeavor. See generally 6 USCIS Policy Manual, supra, at F.5(D)(2) (providing, as guidance, that we look to a variety of factors and education is merely one among many that may contribute to whether an individual is well-positioned to advance their proposed endeavor).

[2] Requirements for aliens of extraordinary ability are in section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), with guiding regulations at 8 C.F.R. § 204.5(h).

We also consider evidence of the Petitioner's record of success in related or similar efforts and any progress towards achieving the proposed endeavor. Matter of Dhanasar, 26 I&N Dec. at 890. The Petitioner provided abstracts of the eight peer-reviewed journal articles he has first-authored or co-authored. He also provided his Google Scholar profile evidencing his articles have been cited 49 times. He claims a few of his articles are ranked among the top 10% cited across all of clinical medicine. However, the Petitioner does not submit evidence demonstrating that the baseline citation rates from clinical medicine apply similarly to the biomedical field, which is his claimed research area. Moreover, citation frequency, which may include self-citations, is quantitative in nature and does not reveal the reasons for the citations, which involve a qualitative analysis.

The Petitioner also submitted abstracts and parts of articles citing his studies. However, the articles list the Petitioner's work in string citations with other studies, merely cite to data compiled in his study, and/or summarize the findings of his study in a sentence or two without more discussion. Beyond having been cited by others in their published works, the articles do not demonstrate how his work is being used by others in the field to establish a record of success or progress towards achieving his proposed endeavor. See generally 6 USCIS Policy Manual, supra, at F.5(D)(1) (providing, as guidance, a petitioner may establish he is well-positioned by including evidence such as excerpts of published articles showing positive discourse around, or adoption of, the person's work, or achievements in the field or how the person's work is being used).

The Petitioner also provided several recommendation letters. In Dhanasar, we considered favorably that the petitioner provided letters authored by established experts in the field who described the petitioner's research in detail and attested to the petitioner's expertise in the field. Matter of Dhanasar, 26 I&N Dec. at 892. The Petitioner submitted two letters from a professor at [redacted] who has been supervising his work, and one from a professor at [redacted] Each author briefly described the Petitioner's research but did not provide sufficient detail explaining the significance of the Petitioner's past research or work. For instance, one author stated, the Petitioner, through his techniques, "has provided monumental knowledge for the scientific community and shed light on the future of cancer immunotherapy." However, the author does not explain how the Petitioner's techniques has provided "monumental knowledge" to the scientific community or how others are using the Petitioner's work. See generally 6 USCIS Policy Manual, supra, at F.5(D)(1) (providing, as guidance, that letters from experts in the person's field should describe the person's past achievements and provide specific examples of how the person is well positioned to advance the proposed endeavor) (emphasis added). In response to SCOPS' request for evidence, the Petitioner submitted additional advisory letters from an associate investigator at [redacted] in [redacted] China, and a professor at the [redacted] Germany, both acknowledging they have cited the Petitioner's research in one of their studies. However, these letters similarly lack detail of how the Petitioner is well-positioned to advance his proposed endeavor. For example, one author stated that the Petitioner's work "help[ed] establish the role played by cell surface proteoglycans in cancer immunotherapy," however, the author does not provide context or details for how his research has "helped," or been adopted by others, or how his work is considered an achievement in the field. Id. Further, the recommendation and advisory letters do not speak to the

Petitioner's specific proposed endeavor, or his record of success or progress towards achieving his endeavor.

The Petitioner also highlights his work as a peer reviewer and one of his recommendation letters summarily states this work demonstrates his recognition as an expert in the biomedical science research community. However, neither the author nor the Petitioner submits the requirements to become a reviewer to support these statements and the Petitioner's evidence does not corroborate such claimed expertise.

We will also consider a petitioner's model or plan for future activities and the interest of potential customers, users, investors, or other relevant entities or individuals in assessing whether a petitioner is well positioned to advance his proposed endeavor. Matter of Dhanasar, 26 I&N Dec. at 890. Here, the Petitioner asserted in his personal statement that he intends to continue his research at the [redacted] and publish his findings. However, he has not provided documentary evidence establishing his ability to continue this employment or otherwise provide an explanation of how he intends to continue this research without his employment with the [redacted] See generally 6 USCIS Policy Manual, supra, at F.5(D)(1) (providing, as guidance, the business plan should be detailed and include relevant supporting evidence when appropriate). While the record contains a letter from the Petitioner's supervisor from the [redacted] the author does not indicate that the center intends to continue to facilitate or fund the Petitioner's research, rather he commends the Petitioner for his impact on their current projects, indicating that he "highly value[s] [the Petitioner's] contributions and [is] confident of his continued success in his professional endeavors." Without a statement of interest or intent from [redacted] or in the alternative, evidence of potential funding for such a position, the Petitioner has not demonstrated that he currently has the ability to pursue his proposed endeavor. See id. (providing, as guidance, documentation reflecting feasible plans for financial support, that the person has received investment from U.S. investors, or awards or grants may demonstrate an individual is well-positioned to advance their endeavor). In the letter from [redacted] his supervisor stated that the Petitioner was "instrumental in garnering interest from commercial (for-profit) entities" and commended his work on existing collaborations funded by third parties, but the letter does not elaborate on the nature of his role, and whether, for example, he was named in any prospective funding grants. 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. Specifically, we noted 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. The record does not similarly support the Petitioner's prospective future funding and interest to advance his endeavor.

In considering the record in totality, we conclude that the Petitioner has not established that he is well positioned to advance the endeavor. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion regarding his 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

Petitioner has not demonstrated he is well positioned to advance the proposed endeavor as required by Dhanasar's second prong, and as a result, that he is eligible for a national interest waiver.

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 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.