U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40784138

Date: JULY 8, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a physical therapy researcher, seeks classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

USCIS denied the petition, concluding that the record did not establish that the Petitioner qualifies for the national interest waiver. The matter is now before us on appeal under 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 a national interest waiver, a petitioner must first show eligibility for the underlying EB-2 visa classification, as either an advanced degree professional or an alien of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then establish 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 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 alien is well positioned to advance their proposed endeavor; and, on balance, waiving the job offer requirement would benefit the United States.

[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

The record demonstrates that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. USCIS determined that the Petitioner had not satisfied the second and third prongs of the *Dhanasar* national interest test.

The Petitioner earned a degree equivalent to a U.S. doctorate in physical therapy from [redacted] in 2017. Since 2018, she has served as an assistant professor at that institution, performing "research in the area of diagnosis and treatment of musculoskeletal injuries." The Petitioner filed the Form I-140 petition in January 2025.

In a statement submitted with the petition, the Petitioner described her proposed endeavor:

> My proposed endeavor is to develop and utilize reliable assessment tools in physical therapy for various musculoskeletal disorders of the lower extremities in order to identify the associations and impacts of distal and proximal joints and establish more effective intervention protocols tailored to each condition. To progress this endeavor, I will utilize my extensive experience with point-of-care ultrasound imaging in the assessment of muscle architecture and morphology, photogrammetric approach, and movement system impairment-based classification.
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> . . . My planned research topics include point-of-care ultrasound imaging in physical therapy advanced physical therapy interventions in musculoskeletal disorders, and brain stimulation for myofascial pain syndrome.

USCIS concluded that the Petitioner had satisfied the first prong of the *Dhanasar* national interest test, establishing the proposed endeavor's substantial merit and national importance. Because other issues determine the outcome of the appeal, we will not discuss the first prong in greater detail here.

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the alien. To determine whether an alien 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. *Matter of Dhanasar*, 26 I&N Dec. at 890.

The Petitioner stated that she intends "to pursue a position as a postdoctoral researcher." Although she stated that she is "most interested in pursuing this position with the University of Texas Southwestern Medical Center," the Petitioner asserted that her "ability to pursue [her] proposed endeavor is in no way connected to any one employer or role."

The Petitioner stated that her "education, experience, expertise, documented record of success, influence in her field, and her future plan have altogether well positioned her to advance the proposed

endeavor." The Petitioner's initial submission emphasized her scholarly publications, with evidence that 14 of her articles received a cumulative total of 169 citations since 2012. The Petitioner submitted copies of some of her published work and a printout from *Google Scholar* showing her citation history. The Petitioner asserted that citation statistics show that one of her articles is "one of the top 10% most cited articles published in 2022 in Clinical Medicine."

In a request for evidence (RFE), USCIS acknowledged the citation information but concluded that the Petitioner had submitted "insufficient documentary evidence to demonstrate the petitioner's research or activities are indicative of a record of success, her work is being widely used or relied upon by others, or sufficient interest in her work." USCIS stated that, while other "authors may reference the petitioner's research as background material for their own findings," the Petitioner had not shown that the citing authors "distinguish or highlight her work or publications from the other cited papers."

In response, the Petitioner asserted that her "record of publication in high-caliber journals supports the conclusion that [her] work has been validated by experts and is demonstrative of her success in the physical therapy field." The Petitioner discussed her citation record at some length. She restates many of these arguments on appeal, and we will address them in that context.

USCIS denied the petition, acknowledging the citation evidence but stating: "Citations are merely one factor among many that may contribute to a finding that a petitioner is well positioned."

The *USCIS Policy Manual* lists several types of evidence that may demonstrate that an alien is well positioned to advance a proposed endeavor. One item on that list is documentation demonstrating a strong citation history of the alien's work. *See, generally*, 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual. At the same time, the list does not indicate that any one type of evidence is either required or sufficient to establish eligibility. *Id.* The *USCIS Policy Manual*, like *Dhanasar*, describes a broad range of potential factors. We consider the balance and context of each of these factors, to determine whether the record as a whole shows that a given alien is well positioned to advance a particular proposed endeavor.

The Petitioner observes that her citation record exceeds that of the Petitioner in *Dhanasar*. But in that precedent decision, we did not base the approval of the petition, in whole or in part, on the alien's citation record. Rather, we noted his "education, experience, and expertise in his field, the significance of his role in research projects, as well as the sustained interest of and funding from government entities." *Matter of Dhanasar*, 26 I&N Dec. at 893.

The Petitioner contends that she "is one of the most highly-cited researchers in her field," citing Exhibit 2b of her response to the RFE. That exhibit consists of two charts indicating that her citation record places her in the 96th percentile among physical therapy researchers. The charts are unattributed and identify no sources, and therefore amount to unsupported assertions that lack evidentiary weight.

Also, the 96th percentile figure appears to be inconsistent with the claim, supported by aggregate statistics for a small number of broadly-defined fields, that "one of [the Petitioner's] papers ranked in at least the top 10% most-cited in the field for its respective year." The Petitioner had published about

25 articles before she filed the petition. The Petitioner has not explained how she ranks in the top 4% of her field if only one of her papers "ranked in . . . the top 10%."

In denying the petition, USCIS concluded that the Petitioner had not established a sufficient "level of interest in the petitioner's proposed research work." USCIS noted that the Petitioner had not submitted "communications from any potential U.S. employers, clients, or interested parties." On appeal, the Petitioner contends that USCIS has attempted to impose a *de facto* job offer requirement.

But the statutory job offer requirement generally includes an approved labor certification, with certain exceptions not relevant in this case. USCIS did not indicate that the Petitioner must secure a labor certification or meet any alternative technical requirements. Rather, USCIS essentially acknowledged that research typically takes place in an institutional setting, such as at a university or clinic. A statement of intention to secure employment at such an institution does not establish that the institution shares that intention.

The Petitioner herself stated that the next step in her proposed endeavor would entail securing a postdoctoral research position. The Petitioner specified that she would prefer to take up a postdoctoral "position with the University of Texas Southwestern Medical Center." But in the absence of evidence that the University of Texas Southwestern Medical Center intends to hire the Petitioner, we have little reason to conclude that the Petitioner is well positioned to work at the University of Texas Southwestern Medical Center.

The Petitioner initially asserted that, while she has a stated preference for a potential employer, her "ability to pursue [her] proposed endeavor is in no way connected to any one employer or role." Nevertheless, the proposed endeavor necessarily involves an employer of some sort, and the Petitioner has not identified any U.S. employer that is interested in hiring her.

The Petitioner contends that interest in her work is evident because "[h]er research has been repeatedly featured in prestigious journals," and citations to her papers show that "researchers have leveraged [her] work to make important advances" in the field. The Petitioner has not established that the dissemination and citation of her research show a level of interest and influence that makes her work stand out in a profession and occupation to which the statutory job offer requirement ordinarily applies.

Initially and in response to the RFE, the Petitioner submitted copies of citing articles, calling them "notable citations of [her] work" showing that other researchers "have cited [the Petitioner's] research in ways that exemplify her pronounced impact on her area of expertise."

One example is a 2024 review article in *European Urology*, which cited 142 sources. An article by the Petitioner is one of three sources cited to support the statement that [redacted] The cited article by the Petitioner is "a systematic review and meta-analysis" that summarized existing research rather than reported new findings.

Another example, published in *Frontiers in Physiology* in 2021, includes the statement that [redacted]

[redacted] The authors then identified four examples of such studies, including one article by the Petitioner. The article does not otherwise cite the Petitioner's work.

The Petitioner has paraphrased some of the passages pertaining to the citations, but she has not persuasively established how these examples amount to "notable citations" of her work in furtherance of "important advances in the field." We agree with this passage in the denial notice:

> The petitioner also points to citations and contend that the citations are "notable." The authors may reference the petitioner's research as background material for their own findings, but they do not distinguish or highlight the petitioner's work or publications from the other cited papers. There is no evidence in the record that distinguishes the citation[s] marked "notable" from the other citations in the record.

Throughout this proceeding, the Petitioner has heavily relied upon her citation record as evidence that she is well positioned to advance the proposed endeavor. These citations acknowledge that the Petitioner's research has added to the pool of knowledge, in the same way that she acknowledged the prior contributions of others when she cited their work in her own articles.

The Petitioner attempts to present these citations as addressing multiple factors identified in *Dhanasar*, such as a record of success, progress toward achieving the proposed endeavor, and the interest of relevant entities or individuals. The Petitioner identifies universities where research teams have cited her work, and contended that the citations amount to institutional endorsements of her work. But she has not persuasively shown that the citation of her work stands out among the hundreds of other citations shown in the record.

The Petitioner has not shown that her work has attracted a degree of attention, and resulted in active demand for her future services, that would warrant a special exemption from the job offer requirement that ordinarily applies to workers in her field, including those whose abilities offer substantial prospective benefit to the United States. *See* 56 Fed. Reg. 60897, 60900 (November 29, 1991); *see also*, *generally*, 6 *USCIS Policy Manual*, *supra*, at F.5(D)(4) (stating that establishing national interest is an "additional requirement" beyond substantial prospective benefit to the United States).

In light of the above conclusions, the Petitioner has not met her burden of proof to show that she satisfies the second prong of the *Dhanasar* national interest test. Detailed discussion of the first and third prongs cannot change the outcome of this appeal. Because the Petitioner has not otherwise established eligibility for the classification sought, we need not reach, and therefore reserve, the remaining *Dhanasar* prongs. *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 established that she is well positioned to advance the proposed endeavor. Therefore, the Petitioner has not shown eligibility for the national interest waiver, and we will dismiss the appeal 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.