U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40777134

Date: JULY 9, 2026

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

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

The Petitioner 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).

USCIS denied the petition, concluding that although the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional, 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 indicated that his proposed endeavor is to work as "a postdoctoral researcher" and "continue his research on investigating knowledge gaps and limitations in the management of drug-resistant TB [tuberculosis], HIV [human immunodeficiency virus], and COVID-19 [coronavirus disease of 2019] in order to inform the development of safe, effective oral treatment regimens with minimal side effects." The Petitioner further stated that he "intends to continue research at [redacted] or a similar employer" and focus on "diagnostic capacities, prevent and treatment of these diseases for future pandemic and epidemic preparedness" and "publish original drug resistance TB research in peer-reviewed journals."

The Petitioner's resume indicates that he obtained a bachelor's degree in medicine and surgery from [redacted] in Nigeria in 2012 and worked in hospitals as a medical doctor in Nigeria until 2013. However, the Petitioner did not submit his diploma or official academic transcripts for this bachelor's degree. The resume also indicates that since 2014, the Petitioner has worked for nonprofit and community organizations in Lesotho, investigating and treating communicable diseases such as tuberculosis and COVID-19. In 2018, the Petitioner obtained a master's degree in public health from the [redacted] and submitted his diploma and academic transcripts to confirm his receipt of this degree.

USCIS determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional but did not provide any analysis based on the evidence submitted.[2] As we conclude that the Petitioner is not eligible for a national interest waiver under the *Dhanasar*'s analytical framework, as discussed below, we reserve our opinion on the Petitioner's eligibility for the underlying EB-2 classification. *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).

USCIS denied the petition under all three prongs of the *Dhanasar*'s analytical framework and concluded that the Petitioner does not merit a national interest waiver. Upon review, we conclude that the Petitioner met the first prong of *Dhanasar* by showing that his proposed endeavor has both substantial merit and national importance, but the record does not sufficiently demonstrate that he 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

[2] We note that the record lacks evidence that the Petitioner possessed a U.S. doctorate or a foreign equivalent degree at the time of filing even though his proposed endeavor to work as a postdoctoral researcher requires a doctoral degree. 8 C.F.R. § 204.5(k)(2) (requiring that if a doctoral degree is customarily required for the specialty, the alien must possess a U.S. doctorate or a foreign equivalent degree).

as business, entrepreneurialism, sciences, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. Based upon the evidence in the record regarding the importance of managing drug-resistant TB, HIV, and COVID-19 and developing treatment for these diseases, as well as the potential for further research and dissemination of knowledge to broadly impact the field of public health, we conclude that the Petitioner's proposed endeavor has both substantial merit and national importance.

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 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. Upon weighing these second prong factors, we conclude that the Petitioner has not sufficiently demonstrated that he is well-positioned to advance the proposed endeavor.

We first consider the factors regarding the Petitioner's education, skills, knowledge, and record of success. *Id.* Although the Petitioner's proposed endeavor is to work as a postdoctoral researcher, he has not provided sufficient evidence that he has the necessary education, specifically a doctoral degree, to qualify him as a postdoctoral researcher. The record demonstrates that the Petitioner obtained a master's degree in public health but lacks evidence showing that he is pursuing a Ph.D. program or that he has a doctoral degree to be eligible to work in a postdoctoral position. The Petitioner also claimed that he has a bachelor's degree in medicine and surgery which is equivalent of a U.S. medical doctor degree, but he has not corroborated his claims with supporting documents such as his diploma and official academic transcripts. While the record includes a credential evaluation report from World Education Services stating that his bachelor's degree in medicine and surgery is equivalent of U.S. doctor of medicine degree, the evaluation does not show that it reviewed and relied on the Petitioner's diploma and academic transcripts to support its conclusion. Credential evaluations are reviewed for advisory purposes only; if questionable in any way, USCIS may give them less weight. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988).

It appears that the Petitioner has been working in the public health arena focused on treating patients and investigating communicable diseases such as TB, HIV, and COVID-19 management in Lesotho. The Petitioner also co-authored journal articles exploring topics such as clinical studies of patients with multidrug-resistant TB and evaluation of treatment methods for drug-resistant TB. The Google Scholar profile shows that the Petitioner has received 122 citations at the time of filing. Such evidence demonstrates that he has developed skills and knowledge that would be useful in continuing his research. On appeal, the Petitioner contends that "his citation record alone is more than adequate in establishing his fulfillment of the second prong of the Dhanasar framework." However, our second prong analysis evaluates all factors in *Dhanasar*, not just the citations alone. In our precedent decision, we found "[t]he petitioner's education, expertise, and experience in his field, the significance of his role in research projects, as well as the sustained interest of and funding from government entities such as NASA and AFRL, position him well to continue to advance his proposed endeavor of hypersonic technology research." *Dhanasar*, 26 I&N Dec. at 893. While research must add information to the pool of knowledge in some way in order to be accepted for publication, this alone is insufficient to

substantiate a claim of impact to the field and a finding that the Petitioner is well-positioned for his endeavor.

The record includes two recommendation letters, one from Dr. C-M-, a professor at [redacted], and another from Dr. R-B-, [redacted] Dr. C-M- confirmed the Petitioner's work and research as "the director of the [redacted] and "as the principal investigator in Lesotho, a high-burden tuberculosis (TB) country with a significant TB incidence and HIV prevalence." She then summarized two of the Petitioner's research papers on observing effectiveness and safety of new medicines and impact of oral regimens for treating drug-resistant TB. Dr. R-B-, a medical epidemiologist at [redacted] indicated that the Petitioner is "an expert in the programmatic management of DRTB (drug-resistant tuberculosis)" and his research "yielded valuable evidence, indicating that the newly introduced DRTB drugs are safer when used together in treatment regimens compared to older drugs." Although the letters claim significance of the Petitioner's work and explain the mechanics of his research, they do not provide sufficient details to 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 he intends to pursue a postdoctoral position at [redacted] and perform research on drug-resistant TB. However, aside from the Petitioner's own statements, the record does not contain evidence related to obtaining this postdoctoral position, such as a job offer letter. In response to the request for evidence, the Petitioner submitted an updated personal statement and indicated again that he plans to "continue pursuing my proposed endeavor while earning my Ph.D. from [redacted] but did not provide evidence of any contacts or communications with [redacted] or any other universities, companies, or clinics that would demonstrate interest in or support the Petitioner's proposed endeavor to research multidrug-resistant TB and offer him a postdoctoral researcher position. On appeal, the Petitioner also asserts that he has "secured a position with [redacted] where he will continue his research" but did not include any evidence to support this claim.[3]

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* F.5(D)(3), https://www.uscis.gov/policymanual. Here, the Petitioner's stated intention for advancing his 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

[3] Dr. C-M-, the professor at [redacted] does not discuss the Petitioner's status as a doctoral student or his future plans to be a postdoctoral researcher at the school in her letter.

future activities and his 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. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(1) (providing, as guidance, examples of establishing a petitioner is well-positioned, including investment from U.S. investors, letters from government agencies or quasi-governmental entities in the United States, or receipt of awards or grants or other indications of relevant non-monetary support from federal, state, or local government entities).

The Petitioner claims on appeal that USCIS dismissed the evidence that his research has been supported by grants from "Unitaid and the Global Fund." Although the copies of publications he has co-authored indicate in the acknowledgements section that the research was supported by grants from Unitaid, the record does not establish the parameters of these grant awards or show whether the Petitioner applied for and received this funding for his 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. *Dhanasar*, 26 I&N Dec. 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*. The Petitioner also asserts that he has generated interest in his work from other researchers in the academia based on the number of citations to his journal articles. However, he has not demonstrated that this interest has resulted in investment to advance his proposed endeavor. Although the record includes two recommendation letters from [redacted], these authors did not mention their institutions' interest in supporting or funding the Petitioner's proposed endeavor.

On appeal, the Petitioner generally disagrees with USCIS' assessment of evidence and asserts that USCIS erred by not adhering to the preponderance of evidence standard and the evidence in the record should be sufficient to find him well-positioned. To determine whether a petitioner has met his burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 376; *see also Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Upon review of the entire record as discussed above, we conclude that USCIS properly applied *Dhanasar*'s second prong multi-factor approach and evaluated the evidence to determine whether the Petitioner has demonstrated the significance of the his research in the field with corroborating evidence, such as peer and government interest in his research, consistent government funding on his research projects, or a record of success or progress in advancing treatment for multidrug-resistant TB. *See id.* at 893. Here, USCIS sufficiently analyzed the record under the applicable preponderance of the evidence but concluded overall that the quality of the evidence lacked probative value in supporting that the Petitioner is well-positioned.

Not every individual who has conducted original research, published findings, and provided peer review service[4] 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 his publication and citation record, are positive factors. However, they are not sufficient to overcome the lack of evidence demonstrating the Petitioner's education, record of success in related efforts, model or plan for future activities, his progress toward achieving the endeavor, or interest from potential investors or other relevant entities.

Therefore, we conclude that the Petitioner has not established that he meets the second prong of *Dhanasar* of being well-positioned to advance his 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. at 25.

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 he 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.

[4] The Petitioner contends on appeal that he "never submitted any evidence of peer review" and USCIS erred by "conflating the facts of [the Petitioner's] case with other petitions" in discussing his peer-review service. However, the Petitioner's initial filing included a single-paged email from "Scientific Reports" thanking the Petitioner for "reviewing the manuscript" (Exhibit 29 labeled "Evidence of [the Petitioner's] peer review service").