U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 40796534

Date: JULY 20, 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 doctoral student and a researcher in the field of industrial 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).

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 she is 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, 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 instant petition was filed in October 2024. The record demonstrates that the Petitioner obtained a master's degree in industrial engineering from [redacted] in 2023. Therefore, the Petitioner qualifies for the EB-2 classification as an advanced degree professional. The remaining issue is whether the Petitioner is eligible for the national interest waiver under *Dhanasar*. USCIS concluded that the Petitioner did not meet any of the *Dhanasar*'s three prongs. Upon de novo 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 sufficiently demonstrate that she is well-positioned to advance the proposed endeavor under the second prong.

The Petitioner described her proposed endeavor as "continu[ing] research on the implementation of graph neural networks (GNNs) for real-time video processing and detection of environmentally harmful activities." The Petitioner stated that "[t]his endeavor holds significant importance in the context of environmental sustainability and proactive conservation efforts" because it "contributes to educating individuals about their environmental impact which can lead to behavior modification, encouraging individuals to make more sustainable choices and reduce their negative influence on the environment." In response to the request for evidence (RFE), the Petitioner further explained that GNNs are "specialized deep learning architectures designed to process data represented as graphs, capturing complex relationships between entities" and "a recent advancement in AI [artificial intelligence] methods." She also stated that her long-term goal is to "conduct research in the Artificial Intelligence area and more specifically make use of various kinds of data which is being produced massively day by day to address different social, environmental, economic, and health-related problems to contribute to the US nation."

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. On appeal, the Petitioner claims that USCIS "improperly focuses on [the Petitioner's] background and qualifications rather than her proposed endeavor itself" in evaluating the national importance of her proposed endeavor and ignored relevant evidence in the record.

Here, the Petitioner presented evidence in the record regarding advancement of AI methods, specifically application of GNNs in detecting harmful activities and addressing behavioral modification or mitigation of environmental problems, challenges of climate change, critical and emerging technologies, priorities of the U.S. government, and letters of support discussing the benefits of her proposed research, offering broader implications for the field of AI as the results are disseminated to others in the field through scientific journals. Therefore, we withdraw USCIS' conclusion concerning the national importance of the Petitioner's proposed endeavor. Her research

contributes to advancing the development of AI capabilities and U.S. competitiveness in a valuable technological field. We conclude that the Petitioner has established, by a preponderance of the evidence, that her proposed endeavor has both substantial merit and national importance and she has met the first prong of the *Dhanasar* framework.

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. 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." *Id.* at 893.

On appeal, the Petitioner claims that USCIS erred by requiring her expert opinions to "discuss the proposed endeavor" and thereby conflated the first and second prong requirements. Furthermore, the Petitioner asserts that USCIS misapplied *Dhanasar*'s second prong by dismissing expert letters, high number of citations to her journal articles, job offers for a postdoctoral researcher position from academic institutions, and industry interests of relevant entities. But we do not find the Petitioner's claims persuasive. In conducting the multifactor analysis under the second *Dhanasar* prong, we conclude that the Petitioner has not sufficiently demonstrated that she is well-positioned.

We first consider the factors regarding the Petitioner's education, skills, knowledge, and record of success. *Id.* at 890. The record indicates that the Petitioner obtained a master's degree in industrial engineering in August 2023. In the fall of 2023, the Petitioner began her Ph.D. program in industrial engineering at [redacted] and has worked as a part-time graduate research assistant since August 2024. However, we note that the Petitioner did not yet possess a Ph.D. in the field as of the time of filing. 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. In *Dhanasar*, the record established that the petitioner held multiple graduate degrees including "two master of science degrees, in mechanical engineering and applied physics, as well as a Ph.D. in engineering." *Dhanasar*, 26 I&N Dec. at 891.

The Petitioner has not sufficiently corroborated with supporting evidence that her level of research constitutes a record of success. We note that the Petitioner's research experience is relatively short, spanning about two years from 2022 to 2024 before the filing of the petition. During this time, she has produced four research papers under the supervision of her professors. In 2024, as a doctoral student researcher, she published a paper entitled [redacted][2] In 2023 the Petitioner worked on a project dealing with [redacted]

[2] The Petitioner further indicated that she is currently working on "designing a Graph Neural Network (GNN) for recognizing dangerous and unsafe actions that a driver might do when driving a car."

[redacted] While completing her master's degree, she also published two papers in 2022 on the following topics: [redacted] and [redacted] The Petitioner's Google Scholar profile indicates that these four research papers garnered a total of 71 citations at the time of filing. As claimed by the Petitioner, such evidence demonstrates that she has developed skills and knowledge that would be useful in continuing her research. These papers, however, are not accompanied by evidence explaining the significance of the citations, and beyond being cited by other researchers to support their own work, the record does not otherwise contain evidence of the utilization of the Petitioner's research within the field of her specific endeavor, i.e., implementing GNNs to detect environmentally harmful activities.

We reviewed the independent advisory opinion letters submitted with the Petitioner's RFE response.[3] The Petitioner contends that USCIS conflated the first and second prong requirements by requiring the expert opinions to discuss her proposed endeavor. However, we conclude that USCIS properly scrutinized the probative value of these expert opinion letters to the extent that they discuss the Petitioner's skills, knowledge, and record of success in terms of her specific endeavor. *See generally* 6 *USCIS Policy Manual, supra,* at F.5(D)(3) ("[l]etters may be persuasive when they . . . provide specific examples of how the person is well positioned to advance the person's endeavor"). Understanding the specific endeavor is material to evaluating the second prong as USCIS must determine whether the Petitioner is well-positioned to advance *her specific, proposed endeavor*. Here, the letters claim significance of her work or generally assert that her AI research is transferrable to many fields and disciplines but does not specifically explain how the Petitioner's research was utilized in detection of harmful environmental activities or in the area of climate change, as she indicated in her proposed endeavor. Other than reiterating that her research papers have been cited by others in their published works, or that her research on AI detection and algorithms generally assisted other researchers, the authors do not provide persuasive details regarding how her research and findings contributed to the success or progress within the field of her proposed endeavor to render her well positioned.

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. *Dhanasar*, 26 I&N Dec. at 890. It is not clear based on the record whether the Petitioner intends to continue her research as a postdoctoral researcher at an academic institution or work as an industrial engineer for a company, as indicated on Form I-140, Immigrant Petition for Alien Workers.

The Petitioner submitted two letters, one from her current advisor at [redacted] and another professor from [redacted] indicating that they would offer her a postdoctoral research position. However, the record does not contain formalized job offers or detailed information about the offered position addressing how the position is aligned with her proposed endeavor of studying GNNs related to climate change or detecting environmentally harmful activities. In addition, these letters postdate the filing of the petition, both written in July 2025, and raise questions as to whether they intended to

[3] We examined expert letters from Dr. V-S-, a research assistant professor in the department of computational intelligence at [redacted] in India, Dr. Y-L-, an associate professor at [redacted] in China, and Dr. J-P-, professor of computer science and engineering at the [redacted] in South Korea.

offer the position to the Petitioner at the time of filing. *See* 8 C.F.R. § 103.2(b)(1) (a petitioner must be eligible as of the date of filing); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). We cannot consider "facts that come into being only subsequent to the filing of a petition." *Matter of Izummi*, 22 I&N Dec. at 176 (citing *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981). The Petitioner also submitted a screenshot of a message from a recruiter at [redacted] on her LinkedIn page expressing interest in hiring her as "AI Trainer," but she did not provide evidence of any further contacts or communications with this company or any other companies that has offered her a position of an industrial engineer. Based on the record, the Petitioner does not appear to have a clear plan as to how she will conduct her research and accomplish her proposed endeavor.

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. 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. The Petitioner has not submitted sufficient evidence of grants or funding that she has received in her name in support of this factor. 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. Only supporting evidence of interest from investors or other relevant entities in the record is an email from [redacted] data science team inviting the Petitioner to discuss her research on LSTM models and how they can adapt her model to mortgage risk prediction. However, we are unable to tell the scale and content of [redacted] interest as she has not provided any other evidence except this email invitation. In addition, the Petitioner received this email on June 25, 2025, which postdates the filing of the petition. Once again, the Petitioner must show her eligibility at the time of filing, not after. *See* 8 C.F.R. § 103.2(b)(1).

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. *Dhanasar*, 26 I&N Dec. 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.