U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40304091

Date: JULY 28, 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 researcher and assistant professor, 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 the Petitioner did not demonstrate he is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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 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

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

For the underlying EB-2 immigrant classification, USCIS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree.[2] The issue on appeal is whether the Petitioner 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 while the Petitioner established meeting the first prong of the *Dhanasar* analytical framework, he did not demonstrate meeting the second and third *Dhanasar* prongs. Upon de novo review, we agree with USCIS' determination that the Petitioner did not demonstrate that he is well-positioned to advance his proposed endeavor under *Dhanasar's* second prong.[3]

At the time of filing, the Petitioner indicated he is an assistant professor and researcher at [redacted] University in [redacted] Canada. For his proposed endeavor, he states that he intends "to continue [his] research on empirically analyzing customers' mentality and purchasing behaviors and using the results to enhance the analytical models developed for optimizing loyalty programs and incentive plans in competitive markets." He plans to "focus on estimating key behavioral parameters – such as customers' valuations of rewards versus their discount rates – based on transaction and loyalty program data." He aims "to help firms design more effective reward strategies that align with consumer preferences, market dynamics, and competitive conditions" so that organizations may "evaluate the profitability and strategic value of different loyalty program structures under various scenarios, ultimately supporting data-driven decision-making and reducing reliance on costly trial-and-error-methods." To further his proposed endeavor, he states that he plans to pursue an associate professor position with [redacted] University at its New Jersey campus, or with another U.S. university.

USCIS concluded that the Petitioner had satisfied the first prong of the *Dhanasar* analytical framework, establishing his 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 Petitioner. To determine whether an individual is well-positioned to advance the proposed endeavor, we consider factors including, but not limited to 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. USCIS determined that, after consideration of these factors, the evidence

[2] To qualify for the underlying EB-2 classification as an advanced degree professional, the Petitioner submitted his diploma and academic transcript indicating he earned a Doctor of Philosophy in mechanical and industrial engineering from [redacted] University in [redacted] Canada in 2017, as well as an academic evaluation. Based on the evidence, the Petitioner has established he is an advanced degree professional.

[3] While we may not discuss every document submitted, we have reviewed and considered each one.

submitted did not establish that the Petitioner is well-positioned to advance the proposed endeavor of research in his field.

On appeal, the Petitioner claims that USCIS erred in the decision by ignoring or minimizing evidence and imposing novel requirements under an elevated standard of review. In the decision's analysis of *Dhanasar's* second prong, he alleges that USCIS abused its discretion relying on irrelevant considerations and not appropriately evaluating the totality of the evidence, citing *Buletini v. INS*, 850 F. Supp. 1222 (E.D. Mich. 1994). He maintains that when considering the evidence in its totality, he clearly demonstrated that his education and training, his documented record of scholarly publication, the recognized influence of his research in the field, and his future research plans leave him well-positioned to advance his proposed endeavor. We disagree with the Petitioner's assessment of USCIS' decision, as discussed below.

To determine whether a petitioner has met their burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *See 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). When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim a petitioner makes, nor is it necessary for it to address every piece of evidence a petitioner presents. *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *aff'd Morales v. INS*, 208 F.3d 323, 328 (1st Cir. 2000); *see also Pakasi v. Holder*, 577 F.3d 44, 48 (1st Cir. 2009); *Kazemzadeh v. US. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *United States v. Teixeira*, 62 F.4th 10, 25 (1st Cir. 2023) (concluding a trier of fact "need not articulate its conclusions as to every jot and tittle of evidence in making a determination"). Based on the record, USCIS' decision is a reasoned interpretation and consideration of the evidence. The decision acknowledges and analyzes documents submitted and weighs the evidence but determined that the evidence lacked probative value. *See Matter of Chawathe*, 25 I&N Dec. at 376. The proposed endeavor, as described, and the evidence in the record do not support the Petitioner's assertions that he is well-positioned to advance his proposed endeavor.

The record includes the Petitioner's statements, his curriculum vitae, his Ph.D. academic records, select pages from his research articles published in peer-reviewed journals, informational documentation about the journals and their rankings, a recommendation letter from the Petitioner's colleague at [redacted] University (formerly [redacted] University), an independent advisory opinion, his Google Scholar citation history, select pages of articles citing the Petitioner's research, and emails relating to the Petitioner's peer-review.

The Petitioner has the foreign equivalent of a U.S. doctorate having received a Doctor of Philosophy in mechanical and industrial engineering from [redacted] University in [redacted], Canada in 2017. While the Petitioner's education renders him eligible for the underlying EB-2 visa classification, he has not shown that his academic accomplishments by themselves are sufficient to demonstrate that he is well-positioned to advance his proposed endeavor.

We recognize the importance of progress in science, technology, engineering, and math (STEM) fields and the role of persons with advanced STEM degrees, particularly with a Ph.D., in fostering this progress. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https: //www.uscis.gov/policy-manual.

We agree with the Petitioner that we consider his Ph.D. in a STEM field tied to his proposed endeavor in the field of industrial engineering to be a positive factor for establishing the second *Dhanasar* prong. *Id.* However, when considered with other evidence in the record, the Petitioner has not shown that he is well-positioned to advance his proposed endeavor as contemplated by *Dhanasar*. In addition to education, we look to a variety of factors in determining whether a petitioner is well-positioned to advance their proposed endeavor and education is one factor among many that may contribute to such a finding. *Id.* Moreover, we note the Petitioner has not claimed his advanced STEM degree and his proposed endeavor focus on critical and emerging technologies or other areas important to U.S. competitiveness or national security. *See id.*

In *Dhanasar*, the petitioner held three advanced degrees, including a Ph.D., tied to his proposed research which had significant implications for U.S. national security and competitiveness. To determine whether the petitioner was well-positioned to continue to advance his proposed endeavor, we also favorably considered the significance of his research which had been corroborated by evidence as having peer and government interest; the significance of his role in his research projects; consistent funding from government agencies of his research projects; and his position with a U.S. university where he intended to conduct his proposed research work. *Matter of Dhanasar,* 26 I&N Dec. at 892-93.

The Petitioner argues his record of success is evidenced by his published research having 72 citations at the time of filing, with 11 "notable" citations by researchers who relied on his work and which show his research serves as an influence for progress in his field. The Petitioner maintains that USCIS imposed novel evidentiary requirements by noting in the decision that "[t]he record lacks sufficient interest from relevant parties who will offer support (financial and resources) for the [P]etitioner's future undertaking or venture." In addition, he claims that USCIS improperly required funding, instead of considering the totality of the evidence to establish the interest in his research. In particular, the Petitioner emphasizes that USCIS failed to consider the interest he garnered through his seven peer-reviewed journal articles, six of which he first-authored and published in four highly ranked journals. The Petitioner notes that his research's citation history of 72 at the time of filing is higher than the petitioner in *Dhanasar*, having only had 23 citations at the time of his filing.

The Petitioner states on appeal that his research papers have been published in highly ranked journals, including *International Journal of Production Economics*, *European Journal of Operational Research*, *Computers & Industrial Engineering*, and *Annals of Operations Research*. He presented Google Scholar Metrics for these publications (based on its h5-index) indicating that the publications ranked first, third, fourth, and sixth, respectively, in "Operations Research." In addition, Google Scholar Metrics indicates that *Computers & Industrial Engineering* ranked third in "Manufacturing & Machinery." While a publication bearing a high journal ranking or impact factor is reflective of the publication's overall citation rate, it does not necessarily demonstrate the Petitioner's influence in a field. For instance, it does not show the influence of any particular author or otherwise demonstrate how an individual's research represents a record of success in their field. Moreover, the Petitioner did not submit evidence that his citation record is comparatively high in his field or that his work and proposed endeavor have otherwise garnered the interest of other researchers in his field. Accordingly, the Petitioner has not shown that his published work has attracted a sufficient level of interest from relevant parties or otherwise renders him well-positioned to advance his proposed endeavor.

In addition, the Petitioner claims to have a record of success through his peer review of others in his field. In support of his peer review work, the Petitioner submitted five emails acknowledging his peer review work.[4] While the acknowledgements indicate the Petitioner reviewed manuscripts, they are brief and lack specificity of the Petitioner's peer review. It is not clear from the record the extent of his peer review or whether his level of participation in the peer review process represented a record of success in his field or is otherwise an indication that he is well-positioned to advance his proposed endeavor.

In addition, the Petitioner claims his statement sufficiently detailed his plans for carrying out his proposed endeavor, including his intent to seek an associate professor position with [redacted] University in New Jersey or with a similar U.S. university. In his statement, he maintained that since 2019, he has been in instructor and researcher at the [redacted] British Columbia, Canada campus of [redacted] University. In addition, he explained his research and instructor responsibilities, noting that while [redacted] University "professionally supported in principle" his move to the New Jersey campus, the university was "unable to facilitate an internal transfer of a full-time faculty member from Canada to the [United States]." The Petitioner, however, did not provide evidence to corroborate his research and instructor experience at [redacted] University, or the university's professional support for him to transfer to their New Jersey campus. Assertions made without supporting documentation are of limited probative value and do not carry the weight to satisfy the Petitioner's burden of proof. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998). While we agree with the Petitioner that employment is not a requirement for a national interest waiver, the Petitioner did not submit evidence of interest from [redacted] University or another U.S. university.

Where a petitioner does not intend to be self-employed, we consider job offers or communications with prospective employers, while not required, relevant to show the circumstances or capacity in which the petitioner intends to carry out the proposed endeavor and the feasibility of that plan. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(1) n. 53. While we consider the Petitioner's plan for conducting his research work at [redacted] University at its New Jersey campus useful in understanding his proposed endeavor, he has not provided evidence relevant to show the feasibility of his plan. Without sufficient evidence demonstrating the means or financial support to undertake his proposed research in the United States, the Petitioner has not demonstrated that his plan for future activities renders him well-positioned to advance the proposed endeavor.

[4] With his request for evidence reply, the Petitioner submitted an email dated January 11, 2024, which generally thanked him for his peer review in 2023. The email did not provide details of the Petitioner's peer review work in 2023. We note that the Petitioner filed this petition on November 3, 2023. Eligibility must be established at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). A petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi,* 22 I&N Dec. 169, 175 (Comm'r 1998). That decision, citing *Matter of Bardouille,* 18 I&N Dec. 114 (BIA 1981), further provides that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition." *Id.* at 176. Without further evidence of the Petitioner's peer review referenced in this email, such as the date and nature of the peer review, we are unable to determine whether he performed the peer review prior to the time of filing the petition and whether the peer review was related to the Petitioner's field or proposed endeavor.

With the appeal, the Petitioner submits additional evidence, specifically a letter from Dr. J-A-, a Dean with [redacted] College of Business at [redacted] University in New Jersey. Dr. J-A- confirms that the Petitioner is a member of its faculty at its Vancouver campus, explains the Petitioner's teaching duties and research topics, and expresses support for the Petitioner's interest in "undertaking a one-year visiting faculty position" at its New Jersey campus. A petitioner may submit anything in support of an appeal, including new evidence; however, where USCIS has requested specific evidence in a request for evidence, and the petitioner failed to comply with the request, that particular evidence will not be considered on appeal. Where a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal or on motion. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner wishes evidence to be considered, it must submit the documents in response to USCIS' request for evidence. *Id.*

Lastly, arguing his research work has the interest of relevant entities and individuals in his field, the Petitioner points to two letters of recommendation. The first is from Dr. S-Z-, a colleague at [redacted] University, who explains having worked with the Petitioner, details his research projects, and generally confirms the Petitioner's having conducted peer review for multiple journals. Dr. S-Z- expresses that the Petitioner's research helps companies better understand loyalty programs so that they "make more informed decisions on what policies are best for maximizing their profits and increasing their customer loyalty." The second is an independent opinion from Dr. J-S-, a professor of business administration and Area Director for Business Analytics and Operations at [redacted] who explains some of the Petitioner's research projects, while noting she has cited two of the Petitioner's research projects "as references for studying the effects of different reward structures on the profitability of loyalty programs." Dr. J-S- further notes that the Petitioner's "peers routinely rely upon his publications to guide and support their own work, which is a defining mark of a field leader in industrial engineering." In addition, Dr. J-S- claims that the Petitioner's research has "aided in the investigation of the profitability of different loyalty programs" and marketing strategies for companies within the United States.

While the letters provide details of his research work and general praise for his research while broadly expressing that the Petitioner's research has helped companies better understand loyalty programs so that they can make more informed decisions for marketing and profitability, the letters do not sufficiently detail how the Petitioner's specific research work has influenced their field. For instance, they lack specific and concrete examples demonstrating how the Petitioner's work has been adopted, applied in practical settings, or has influenced his field besides being referenced in other researcher's work. The record also lacks evidence that the Petitioner's work has resulted in real-world applications or influenced academic or industry practices. Although Dr. J-S- mentions having cited the Petitioner's research "as references" and that others rely on the Petitioner's research "to guide or support their own work," the letters do not provide details or examples of how the Petitioner's specific work has influenced their research or others in their field so that we could evaluate whether it represents a record of success or progress rendering the Petitioner well-positioned to advance his proposed endeavor.

We must consider the weight of each piece of evidence and determine whether the aggregate is enough to meet the second *Dhanasar* prong. Here, the limited evidence of interest is insufficient to meet the Petitioner's burden. In sum, while the Petitioner has conducted productive research that has been

useful to some of his colleagues, he has not demonstrated sufficient progress or success in his field, or interest in his work from relevant parties, to show that he is well-positioned to advance his proposed research endeavor.

Here, although the record demonstrates that the Petitioner conducted research, he has not demonstrated that his academic credentials, his research work, and his peer review render him well-positioned to advance his proposed endeavor. Whilst we recognize that research must add information to the pool of knowledge in some way to be accepted for publication, presentation, funding, or academic credit, not every individual who has performed original research will be found to be well-positioned to advance their proposed endeavor. The Petitioner here has not sufficiently demonstrated that his published work and peer review have served as an impetus for progress in his field. Here, the limited evidence of interest is insufficient to meet the Petitioner's burden. As the Petitioner has not demonstrated that he is well-positioned to advance his proposed research endeavor, he has not established that he satisfies the second prong of the *Dhanasar* framework.

Because the documentation in the record does not sufficiently establish the Petitioner is well-positioned to advance the proposed endeavor as required by the second prong of the *Dhanasar* precedent decision, he has not demonstrated eligibility for a national interest waiver. This identified basis for dismissal is dispositive of the Petitioner's appeal, and therefore we decline to reach and hereby reserve the Petitioner's appellate arguments and eligibility under the first and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

As the Petitioner has not established eligibility under the requisite second prong of the *Dhanasar* analytical framework, he 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.