U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43192852

Date: JUN. 09, 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 chemical and biomedical engineer, 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 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:

- 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.

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

II. ANALYSIS

USCIS determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. Based on the evidence in the record that the Petitioner has obtained a Ph.D. in chemical and biomolecular engineering, we agree. The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest under the analytical framework set forth in *Matter of Dhanasar*.

The Petitioner's proposed endeavor is to investigate emerging pharmaceutics and analyze the patient journey from diagnosis to treatment in order to improve drug approval rates, generate insights on unmet needs related to various disease conditions, provide evidence to guide the drug design process, and ensure appropriate market access of medicines to patients. The Petitioner states that he is currently employed as a senior consultant at [redacted] where he will conduct primary and secondary market research for pharmaceutical companies and assist them in designing better clinical trials and enhancing access to medicine. The Petitioner states that his research will advance the pharmaceutical sector and be promoted at the national level through scientific papers, blogs, webinars, and white papers.

USCIS found that the Petitioner established both the substantial merit and the national importance of the proposed endeavor and therefore met the first *Dhanasar* prong. However, USCIS found that the Petitioner did not establish that he is well-positioned to advance the proposed endeavor, or that, on balance, a waiver of the job offer requirement would benefit the United States. Based on our de novo review of the record, we agree with USCIS that the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Matter of Dhanasar*. Specifically, we agree that the Petitioner has not sufficiently demonstrated that he is well-positioned to advance the proposed endeavor as required by the second *Dhanasar* prong, and we will dismiss the appeal on that basis.

On appeal, the Petitioner claims that USCIS made various errors in analyzing the second prong. For example, the Petitioner asserts that USCIS erred in finding that the Petitioner did not demonstrate how many of his citations are self-citations, in finding that he did not demonstrate that his citations were "notable," and in finding that he did not demonstrate that his work had been implemented in the field. The Petitioner also objects to USCIS' statement that the record lacks a letter from his employer to demonstrate that his education, skills, knowledge, and experience place him "above others who work in the field." The Petitioner also claims that USCIS misunderstood the evidence relating to citation frequency statistics and their significance. Overall, the Petitioner asserts that USCIS improperly dismissed much of the evidence submitted and that the record establishes that he is well-positioned to advance the proposed endeavor.

While the first prong of the *Dhanasar* framework focuses on the specific endeavor, the second prong shifts the focus from the proposed endeavor to the individual and whether they are well-positioned to advance it. *Id.* at 890. In determining whether a petitioner is well-positioned to advance their proposed

endeavor, we consider factors including but not limited to: the individual's 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.

We first consider the Petitioner's education, skills, knowledge, and record of success in related or similar efforts. The record shows that the Petitioner has obtained a Ph.D. in chemical and biomedical engineering. Additionally, the Petitioner contends that his skills, knowledge, and record of success are demonstrated based on his citation record, his publication in prestigious journals, and his peer review service. Although the Petitioner's education is a positive factor in support of his positioning to advance the proposed endeavor, on balance we conclude that the record does not sufficiently demonstrate the Petitioner's skills, knowledge, and record of success in related or similar efforts.

The Petitioner heavily emphasizes his citation record and the prestige of the journals in which he has been published, both before USCIS and on appeal. Additionally, he specifically objects to USCIS' interpretation of the evidence submitted regarding his citation statistics. However, the Google Scholar citation history submitted by the Petitioner shows that, of the 123 times that the Petitioner's work had been cited as of the time of filing, 122 of those citations were from a single paper in which he was the fifth-listed author and which does not appear to relate to the proposed endeavor. Specifically, this paper, titled [redacted] relates to the use of wood as a conductive material to be used for electromagnetic shielding, and does not appear to relate to investigating pharmaceuticals to improve medical treatment. A recommendation letter from C.W.,[2] Associate Professor at [redacted], describes this research on conductive wood as assisting "civil engineers in their need for robust materials," and "the military in their efforts to protect key installations from electromagnetic wave trackers." On appeal, the Petitioner continues to emphasize that his research has impacted the field by providing examples where the wood conductivity study has been cited by other researchers, claiming that these citations show that this research is "integral to the advancement of sustainable electronics" and "serves as an important tool for the advancement of electric heating management applications."

But regardless of whether this paper is highly cited in the field of materials science, as the Petitioner claims, the record does not sufficiently establish how this demonstrates a record of success in "related or similar efforts" to that of the proposed endeavor. *See id.* at 890. The record shows that the Petitioner was also involved in a study related to medication delivery into the inner ear to address hearing disorders. While this project appears to be more closely related to the proposed endeavor, the six papers and conference abstracts that the Petitioner published based upon this study had not received any citations at the time of filing. The Google Scholar page submitted in response to the request for evidence (RFE) shows that, by the time the response was submitted, one of those papers had received a single citation. The Petitioner emphasizes the prestige of the journals in which the papers related to the hearing loss study have appeared. However, we conclude that this does not demonstrate on its own a record of success without other evidence, such as citations to his prior work that is related to the proposed endeavor, or persuasive letters of recommendation describing impact on the field. Therefore, although the Petitioner has a Ph.D. in a related field, has conducted some peer review, and

[2] We use initials to protect individuals' privacy.

has published works, we conclude that the record is not sufficient to demonstrate the Petitioner's record of success in related or similar efforts.

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 asserts on appeal that the RFE response provided a "comprehensive personal statement that clarified his proposed endeavor and specifically discussed his active research and how this work aligns with the advancement of his proposed endeavor." In the personal statement, the Petitioner describes three projects that he will pursue through his employment as a senior consultant with [redacted], where he will be conducting primary and secondary market research for pharmaceutical companies. The Petitioner describes a project related to using gene therapy treatment, a project to integrate digital health technologies and artificial intelligence (AI) to improve health outcomes, and a project to improve diversity in clinical trial design. The Petitioner also claims that the evidence that his previously published research has continued to accumulate citations demonstrates his continued progress.

First, we disagree that continued citations to the Petitioner's prior research work constitutes the Petitioner's own progress, particularly where, as here, the paper that has almost entirely received these citations does not clearly relate to the proposed endeavor. Second, while the Petitioner claims that he will pursue his endeavor, and these specific research projects, while working as a senior consultant at [redacted] we conclude that the record does not sufficiently demonstrate these claims. The Petitioner did not provide evidence, other than his own statement, related to this position with [redacted] in general or these specific projects. For example, the record lacks a job description for the Petitioner's current position or a letter from his employer describing these projects or their support for his pursuit of the proposed endeavor.

The Petitioner seeks a national interest waiver of the job offer requirement; therefore, evidence of an offer of employment is not a requirement for approval, nor is the lack of a job offer a negative factor in analyzing the evidence, depending on the specific circumstances of the case. However, in this instance, the Petitioner's plan for progressing his proposed endeavor involves this claimed employment, and the Petitioner has not provided sufficient documentary evidence related to the claimed employment. A petitioner must also support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. In the case of a petitioner who does not intend to be self-employed, USCIS considers a job offer or communications with prospective employers, while not required, 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), http://www.uscis.gov/policy-manual. We therefore conclude that the evidence in the record related to the Petitioner's model or plan for 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. *Matter of Dhanasar*, 26 I&N Dec. 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. The Petitioner again emphasizes on appeal his citation record and publication in "prestigious journals." Additionally, the Petitioner claims that his research has been supported by funding from the Rubenstein Hearing Fund and

the National Institute on Deafness and Other Communication Disorders (NIDCD), a part of the National Institutes of Health, and that this demonstrates interest from relevant entities.

In support of the Petitioner's funding, he submitted copies of publications that he has co-authored which indicate in the acknowledgements section that the research was supported by grants or awards from Rubenstein Hearing Fund and NIDCD. The Petitioner also submitted a Notice of Award from NIDCD in which the recipient of the award is [redacted] and the principal investigator is D.Q.S., one of the Petitioner's collaborators. USCIS concluded in its decision that, based on this evidence, the record did not establish whether the Petitioner was involved in obtaining this funding. On appeal, the Petitioner objects to this finding because the record contains a recommendation letter from D.Q.S., which states that the Petitioner "was instrumental in securing and executing this funded research."

We agree with USCIS that the Petitioner having participated in research that was funded by these entities, as demonstrated by the acknowledgements section in a published paper, does not sufficiently demonstrate interest in the Petitioner himself pursuing the proposed endeavor. Additionally, we are not persuaded that D.Q.S.'s statement in the recommendation letter establishes a level of interest from relevant entities that would be indicative of the Petitioner's being well-positioned to advance the proposed endeavor. The statement that the Petitioner was "instrumental" lacks specificity and corroboration by other documentary evidence.

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. *Matter of Dhanasar*, 26 I&N Dec. at 893, Fn. 11. Here, the record lacks detail as to the Petitioner's role in obtaining this funding, and therefore whether this 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*. Finally, we are not persuaded that the Petitioner's citation record demonstrates interest from potential users or other relevant entities because the evidence shows that this interest, primarily, relates to a field of materials science that the Petitioner has not established is relevant to the proposed endeavor. For these reasons, we conclude that the record does not sufficiently demonstrate interest from potential customers, users, investors, or other relevant entities or individuals. *Id.*

Not every individual who has conducted original research and published findings 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 considering the record in totality, we conclude that the Petitioner has not established that he is well-positioned to advance the endeavor. Because the Petitioner has not met the requisite second *Dhanasar* prong, we conclude that he has not established that he is eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the first or third *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 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.