U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40527275

Date: JUN. 30, 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 the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established that a waiver of the required job offer, and thus of the labor certification, would be 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;

[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 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

USCIS concluded that the Petitioner qualified as a member of the professions holding an advanced degree, but that he had not satisfied any of the three prongs set forth in the *Dhanasar* precedent decision.[2] The sole issue to be determined therefore 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.

At the time of filing, the Petitioner was working as a Senior Manager of Pavements at [redacted] for [redacted].[3] He indicated that his "proposed endeavor is to implement sustainable engineering practices and utilize recycled materials in the design and development of pavement solutions in order to significantly reduce pavement's carbon footprint while also ensuring pavement durability and efficiency." The Petitioner further stated:

> I intend to pursue a position as a senior program officer for the [redacted] Pavement and Materials division in the United States. I am most interested in pursuing this position with the [redacted] My planned research topics include performing new materials and technology deployment in pavement structural design.

In response to USCIS' request for evidence (RFE), the Petitioner asserted that he planned to "undertake and lead applied research to advance the implementation of sustainable pavement engineering practices that contribute to reducing the carbon footprint of transportation infrastructure while enhancing its resilience, durability and efficiency." He further wrote: "By integrating recycled materials and innovative technologies, my work aims to deliver long-lasting, environmentally responsible, and cost-effective pavement solutions that respond to the critical challenges faced by infrastructure systems today." The Petitioner also outlined three research projects which he claimed he planned to undertake: [redacted]

[2] The Petitioner presented an educational evaluation indicating that his Doctor of Philosophy degree from [redacted] (2015) is the foreign equivalent of U.S. Ph.D. in Civil Engineering.

[3] On his Form ETA-9089, Appendix A: Foreign Worker Information, the Petitioner indicated that his "Job Duties" in this capacity include: "Undertake applied research in the field of pavement and materials engineering to develop and maintain state road agency relevant standards. Duties also include leading technical pavement managers, providing technical and strategic advice for complex pavement and infrastructure issues, and coordinating between partner research organizations. The tools/equipment used include but not laboratory apparatus to undertake advanced testing and experimental research on pavement materials, a Falling Weight Deflectometer (FWD) as a non-destructive tool for in-service pavement performance research, and finite element software to develop new pavement design procedures." As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for him to have a job offer from a specific employer. However, we will consider information about his position to illustrate the capacity in which he intends to work in order to determine whether his proposed endeavor meets the requirements of the *Dhanasar* framework.

As discussed below, we conclude the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

A. Substantial Merit and National Importance of the Proposed Endeavor

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* We agree with USCIS' determination that the Petitioner's proposed endeavor has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We withdraw USCIS' conclusion that the Petitioner did not establish the national importance of his proposed endeavor under *Dhanasar's* first prong. As evidence that his proposed research has substantial merit and national importance, the Petitioner presented information about the environmental benefits of reducing pollutants in asphalt. He also provided letters of support discussing how his undertaking helps contribute to advancements in sustainable pavement engineering practices. Additionally, the Petitioner submitted documentation indicating that the benefit of his proposed research offers broader implications in the field of pavement engineering, as the results are disseminated to others in the field through scientific journals and conferences. As the Petitioner has demonstrated both the substantial merit and national importance of his proposed research, he has established that he meets the first prong of the *Dhanasar* framework.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether they are 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.*

The record includes documentation of the Petitioner's curriculum vitae, doctoral degree, published and presented work, and funding sources. The Petitioner also offered evidence of articles that cited to his published work, citation metrics, and letters of support discussing his research projects.

The Petitioner contends on appeal that USCIS did not correctly evaluate evidence in the record, and that this evidence establishes he is well positioned to advance the proposed endeavor. The Petitioner further argues that USCIS did not properly analyze his published and presented work, citation evidence, letters of support, education, and research funding. For the reasons discussed below, the record supports USCIS' determination that the evidence is insufficient to demonstrate that the Petitioner is well positioned to advance his proposed endeavor under the second prong of the *Dhanasar* analytical framework.

In letters supporting the petition, the Petitioner's references discussed his pavement engineering research projects. For example, regarding the Petitioner's work involving the combination of hot mix

asphalt and double-coated recycled concrete aggregates (DCRCAs), Dr. A-H-, an associate professor at [redacted] stated that the Petitioner "developed a novel technique involving the fortification of recycled concrete aggregates with a cement slag paste, followed by an acrylic bitumen emulsion layer." Dr. A-H- further indicated that "the resulting material is a highly durable and sustainable DCRCA with improved strength and moisture resistance in comparison to conventional asphalts," but she did not elaborate on the extent to which the Petitioner's specific technique has been utilized in the roadway construction industry. Nor has the Petitioner otherwise demonstrated that his research findings constitute a record of success or progress rendering him well positioned to advance his proposed endeavor.

In addition, with respect to the Petitioner's work relating to the improvement of asphalt mixture lifespan predictions, Dr. A-R-A-, a professor at the [redacted], stated that the Petitioner "applied finite element methods to model several scenarios based on variable parameters in layered roads. These simulations explored factors such as vehicle weight and layer composition to provide an in-depth understanding of the complex interactions between road components and external elements." While Dr. A-R-A- also asserted that the Petitioner's "investigation yielded considerable findings into the properties and behaviors of base and subgrade road layers" and that "[t]hese findings facilitate the efficient development of more robust roads," he did not offer specific examples of how the Petitioner's work has affected the field, or otherwise shows success or progress at a level that renders him well positioned to advance his proposed endeavor.

Furthermore, J-S-T-, Senior Scientific Technical Manager, [redacted] indicated that he is "acquainted with [the Petitioner's] transformative innovations in the field of pavement engineering, advancements in pavement design and utilization of alternative materials." J-S-T- further asserted that the Petitioner "is a highly accomplished pavement engineer" and that "[h]is work in sustainable pavement design is both timely and impactful," but the Petitioner has not shown that the level of interest in his work or his record of success in research is sufficient to demonstrate he is well positioned.

The Petitioner states on appeal that his research papers have been "featured in some of the top journals in his field," including [redacted] He presented Google Scholar Metrics for this publication (based on its h5-index) indicating that it ranked [redacted] in "Civil Engineering." That a publication bears a high journal ranking or impact factor is reflective of the publication's overall citation rate. It does not, however, show the influence of any particular author or otherwise demonstrate how an individual's research represents a record of success in their field.

As it relates to the citation of his work, the Petitioner presented his Google Scholar profiles from June 2024 and, in response to USCIS' RFE, from June 2025. The most recent profile indicated that his five highest cited articles entitled [redacted] (2018), [redacted] (2019), [redacted] (2019), [redacted] (2013), and [redacted] (2020) each received 49, 44, 20, 19, and 17 citations, respectively.[4]

[4] None of the Petitioner's remaining articles had received more than 11 citations as of June 2025.

The Petitioner also provided 2025 data from Clarivate Analytics (InCites Essential Science Indicators) regarding baseline citation rates and percentiles by year of publication for the "Engineering" research field. The Petitioner contends that "one of [the Petitioner's] published articles had obtained enough citations to rank among the top 10% and one among the top 20% most-cited articles published in Engineering in their respective years." Here, the Petitioner relies on citation information concerning the larger field of engineering and compares his citation frequency in pavement engineering or civil engineering to that of the larger field. While we acknowledge that pavement engineering and civil engineering are part of the larger field of engineering, the Petitioner has not submitted sufficient evidence confirming that information extrapolated from the larger field applies equally to each subfield within engineering, including pavement engineering or civil engineering. Thus, the Petitioner's comparison of his citation number in his field with information regarding citation in the larger field of engineering does not sufficiently establish the level of his success or impact in the field of pavement engineering or civil engineering.

Additionally, the Petitioner submitted an article in *Scientometrics* written by Lutz Bornmann and Werner Marx, entitled "How to evaluate individual researchers working in the natural and life sciences meaningfully? A proposal of methods based on percentiles of citations." This article presents recommendations for "how to evaluate individual researchers in the natural and life sciences" for purposes of funding and promotion or hiring decisions. The authors state that "publications which are among the 10% most cited publications in their subject area are as a rule called highly cited or excellent" and that "the top 10% based excellence indicator" should be given "the highest weight when comparing the scientific performance of single researchers." While the authors offer proposed methods for bibliometric analysis of research performance, the record does not indicate that their methods have been accepted and implemented by the academic community. Moreover, with respect to citation information from Google Scholar, the authors advise against "using Google Scholar (GS) as a basis for bibliometric analysis. Several studies have pointed out that GS has numerous deficiencies for research evaluation."

Nevertheless, citation frequency which is quantitative in nature does not reveal the reasons for the citations, which involve a qualitative analysis. In other words, a high citation number might show that others in the field have noticed the Petitioner's work, but it does not confirm that his work has impacted or advanced the field of in such a way that renders him well positioned. Regarding a qualitative analysis of the citations to the Petitioner's work, the record contains partial copies of articles that cited to his papers (including his paper, entitled [redacted] for example). These articles include the text of the citation, which the Petitioner asserts highlight the impact of his papers. While we agree with the Petitioner that these citations indicate some degree of interest in his research from his colleagues and peers in the field, this evidence is not sufficient to demonstrate a level of interest or a record of research success that renders him well positioned. The articles in the record cite to his work as an example of research done in the field or in their introduction section as part of an overview of current research, but none highlight or comment upon his research in a way that demonstrates he is well positioned to advance the proposed endeavor.

As it relates to the Petitioner's education, while his Ph.D. 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.[5] 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." *Id.* at 891. We look to a variety of factors in determining whether a petitioner is well positioned to advance his proposed endeavor and education is merely one factor among many that may contribute to such a finding.[6]

The Petitioner also asserts that he has received support for his work from "major funding sources." In support of his claim, the Petitioner submits a Final Report that was presented to the Australian Research Council (ARC) for the project entitled [redacted] The report indicates that the [redacted] also contributed funding for the project and it identifies Dr. H-N-, P-J-, L-P-, and C-L- as "Named participants," but the Petitioner is not included on this list. He also submitted his Ph.D. thesis and two research articles which each include an acknowledgement noting that the work was supported by the ARC. In *Dhanasar*, the record established that the petitioner "initiated" or was "the primary award contact on several funded grant proposals" and that he was "the only listed researcher on many of the grants." *Id.* at 893, n.11. Here, the record does not show that the Petitioner rather than his professor (Dr. H-N-) was mainly responsible for obtaining funding for their research projects.

Regarding the Petitioner's future plans, he stated that he intends to pursue a position as a senior program officer for the [redacted] division under the [redacted] The record, however, does not include a letter or other corroborating evidence from the [redacted] expressing interest in the Petitioner's services, identifying the specific research projects he would undertake, or indicating how his projects would be funded. Unsupported assertions and speculation have no evidentiary value and are insufficient to establish a filing party has satisfied their burden of proof. *See Matter of Mariscal-Hernandez*, 28 I&N Dec. 666, 673 (BIA 2022).

The record demonstrates that the Petitioner has conducted, published, and presented research relating to pavement engineering, but he has not shown that this work renders him well positioned to advance his proposed endeavor. While 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

[5] "USCIS considers an advanced degree, particularly a Doctor of Philosophy (Ph.D.), in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology or other STEM area important to U.S. competitive or national security, an especially positive factor to be considered along with other evidence for purposes of the assessment under the second prong." *See generally* 6 *USCIS Policy Manual*, F.5(D)(4), https://www.uscis.gov/policy-manual. A degree in and of itself, however, is not a sufficient basis to determine that a person is well positioned to advance the proposed endeavor. *Id.*

[6] To establish that it would be in the national interest to waive the job offer requirement, a petitioner must go beyond showing their expertise in a particular field. The regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, individuals of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given petitioner seeks classification as an individual of exceptional ability, or as a member of the professions holding an advanced degree, that individual cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in their field of expertise. *See Dhanasar*, 26 I&N Dec. at 886 n.3.

their proposed endeavor. Rather, we examine the factors set forth in *Dhanasar* to determine whether, for instance, the individual's progress towards achieving the goals of the proposed research, record of success in similar efforts, or generation of interest among relevant parties supports such a finding. *Id.* at 890. The Petitioner, however, has not sufficiently demonstrated that his work constitutes a record of success or progress in pavement engineering research rendering him well positioned to advance his proposed endeavor. 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.

III. CONCLUSION

Because the documentation in the record does not establish that 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. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the third prong outlined in *Dhanasar*. *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).

As the Petitioner has not met the requisite second prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

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.