U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37800677

Date: MAY 08, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an engineer and researcher in the field of clinical tissue engineering and transplantation, 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).

Service Center Operations (SCOPS) denied the petition, concluding that although the Petitioner had established his qualification for EB-2 classification as a member of the professions holding an advanced degree, 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:

[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

SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree. However, SCOPS denied the petition after considering the Petitioner's response to its request for evidence (RFE). It concluded in part that the evidence in the record was insufficient to demonstrate that the Petitioner is well-positioned to advance his proposed endeavor under the second prong of *Dhanasar*.[2] SCOPS determined, therefore, that a favorable exercise of discretion in waiving the job offer requirement was not warranted.

The Petitioner is a researcher in the field of clinical tissue engineering and transplantation. In a personal statement submitted with his petition, the Petitioner indicates that he "intends to pursue a position as a senior research scientist in the United States." He also states that he intends to "develop and process allograft bioimplant products, such as bone and soft tissue scaffolds including skin, cartilage, mineralized and demineralized bone matrices, mineralized bone matrices, and collagen fillers, in order to optimize their overall medical performance and address disorders in patients". In a subsequent personal statement, submitted with his RFE response, the Petitioner indicates his intent to continue his "investigation into the development and application of hybrid allografts, aiming to enhance tissue processing and improve organ donation and transplantation outcomes." The Petitioner explains that his "future research will focus on creating innovative allograft bioimplant products that integrate synthetic materials with traditional allografts, providing advanced solutions for regenerative medicine."

On appeal, the Petitioner, citing to *Buletini v. INS*, 860 F. Supp. 1222, 1226 (E.D. Mi. 1994), asserts that SCOPS' decision represents an abuse of discretion as it was "failed to review all of the relevant evidence in the case" when determining that he had not established that he satisfied the second prong of the *Dhanasar* analytical framework. The Petitioner contends that when SCOPS' analysis appeared to conflate peer review with review articles, this indicated its failure to consider evidence regarding the importance of these review articles.

However, the court in *Buletini* did not suggest that USCIS abuses its discretion if it does not provide individualized analysis for each piece of evidence. When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the petitioner makes, nor is it necessary for it to address every piece of evidence the petitioner presents. *See Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970

[2] SCOPS concluded that although the record demonstrated that the proposed endeavor had substantial merit, the Petitioner had not established that the proposed endeavor was of national importance, as required under the first prong of *Dhanasar*. SCOPS further determined that the record did not show that, on balance, waiving the job offer requirement would benefit the United States, as required under the third prong of the *Dhanasar* analytical framework.

F.2d 973, 976 (1st Cir.1992); *see also Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993). Further, the record reflects that SCOPS' decision explicitly referenced evidence submitted with the initial petition and RFE response in concluding that the Petitioner had not demonstrated that he is well positioned to advance the proposed endeavor.

The Petitioner also objects to SCOPS' "rejection" of evidence relating to the impact factors of journals on the ground that there is no "direct correlation" between the number of citations and the journal's impact factor. He acknowledges that this correlation does not exist but contends that journal impact factors are "surely relevant" because they are a consideration for establishing the "heightened standard" required for individuals of extraordinary ability as shown in 6 *USCIS Policy Manual* 5.F(B)(2).[3] Thus, the Petitioner argues on appeal, SCOPS' "rejection" of the impact factors is a failure to consider relevant evidence and constitutes an abuse of discretion as contemplated by the *Buletini* court. However, individuals of extraordinary ability are defined at section 203(b)(1) of the Act; 8 U.S.C. § 1153(b)(1), distinct from the classification sought by the Petitioner, which is defined at section 203(b)(2) of the Act; 8 U.S.C. § 1153(b)(2). Accordingly, the requirements for each are distinct such that evidence deemed relevant to establishing a petitioner's eligibility for EB-1 classification may not be relevant in demonstrating the Petitioner's eligibility for the EB-2 classification, as asserted.

Additionally, the Petitioner contests SCOPS' conclusion that evidence in the record does not show that his work constitutes "a record of success or progress in his area of endeavor" because its decision included language indicative of a "heightened requirement for influence on a particular field". The Petitioner asserts that SCOPS "call[ed] for evidence showing that [his] research served as "an impetus for progress in the field" or that [this research] produce "substantial positive discourse in the broader field of Clinical tissue engineering." The Petitioner contends that *Matter of Dhanasar* does not include such a heightened requirement. We note, however, that as part of a non-exhaustive list of evidence that may be provided to establish that a person is well-positioned to advance a proposed endeavor, 6 *USCIS Policy Manual, supra*, at 5.F(D)(1) provides the following relevant examples:

- Documentation demonstrating a strong citation history of the person's work or excerpts of published articles showing positive discourse around, or adoption of, the person's work;
- Evidence that the person's work has influenced the field of endeavor;

We further note the Petitioner's objection to SCOPS' partial reliance upon citation rates in concluding that he had not satisfied the second prong of the *Dhanasar* analytical framework. He argues that doing so also imposed a "novel and substantive standard" because in *Dhanasar* we did not mention the petitioner's citation record or highlight particular citations of the petitioner's work. However in *Dhanasar*, we acknowledged the extensive record, inclusive of "copies of his publications and other published materials that cite his work" in considering whether the petitioner established his eligibility for and merited a national interest waiver. *Matter of Dhanasar*, 26 I&N Dec. at 891-892. Accordingly

[3] 6 *USCIS Policy Manual* 5.F(B)(2), www.uscis.gov/policy-manual, discusses the evidentiary requirements to establish eligibility for classification as an employment-based first preference (EB-1) immigrant.

the Petitioner has not established that SCOPS imposed a "novel and substantive standard" as contended.

Finally, the Petitioner argues that the evidence in the record establishes that he is well positioned to advance the proposed endeavor as required under the second prong of *Dhanasar*. Upon de novo review of the record, we disagree.

The second prong of the *Dhanasar* analytical framework shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether the petitioner 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.*

The record includes the Petitioner's curriculum vitae (CV), academic records, published work, reference letters, information regarding his publication and citation record, excerpts from research citing his work, and additional information on the journals in which his work has been published. The Petitioner emphasizes on appeal that his education, reference letters, and his significant publication and citation records demonstrate that he is well positioned to advance the proposed endeavor.

Turning to the factors enumerated in *Matter of Dhanasar* for evaluating evidence under the second prong, we first consider the Petitioner's education, skills, knowledge and record of success in related or other efforts. The Petitioner contends that his history of employment in the field demonstrates that he has the skills, knowledge, and record of success such that he is well-positioned to advance the proposed endeavor. We note the Petitioner's CV reflects that he has worked as a researcher, coordinator, production manager, and assistant professor in the field of clinical tissue engineering. The record also shows that the Petitioner holds a doctor of medicine from [redacted]. By contrast, the petitioner in *Dhanasar* 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. Further, we look to a variety of factors in determining whether a petitioner is well positioned to advance their proposed endeavor, and education and skills are merely one factor among many that may contribute to such a finding.

The Petitioner further contends that his "notable" citation record, his publication record, and the prestige of the journals in which he has published shows that he is well-positioned to advance the proposed endeavor. The record includes a Google Scholar document submitted with the petition, an updated Google Scholar document, a Clarivate Analytics Essential Science Indicators document, and OpenAlex analyses of his citation and publication frequencies.

The Petitioner emphasizes on appeal that one of his research articles is in the top 10 percent of most cited articles published in Clinical Medicine in its year of publication while another four are in the top 20 percent. He highlights his 2016 article titled "[redacted]" noting that it had received 121 citations to date. Referencing the Clarivate Analytics Essential Science Indicators document, the Petitioner notes that the average citation rate for all articles published in 2016 in the

category of Clinical Medicine was 24.63. The Petitioner asserts that this shows that his article was one of the top 10 percent most-cited articles published in Clinical Medicine in 2016. However, the Clarivate Analytics document provided by the Petitioner states that the value of 24.63 is the average number of citations for an article published in "one research field in a given year". The Petitioner does not offer the number of citations that this article received in 2016 or otherwise show that this article's average citation rate in 2016 is in the top 10 percent most cited articles in that year alone. The Petitioner conducts an identical analysis for each of the remaining four articles, contending that this demonstrates that the citation rate for these articles also places them in the top 20 percent of all published articles in Clinical Medicine in their respective years of publication. However, as with the 2016 article, he does not provide the citation rate for these articles in the year that they were published or otherwise demonstrate that these articles were among the top 20 percent most-cited articles published in Clinical Medicine in their respective years, as asserted.

Regarding the Petitioner's publication rates, the record includes OpenAlex analyses showing that his number of publications places him in the 99.94 percentile for research productivity in the field of regenerative medicine. However it lacks sufficient evidence to show that his research productivity is high relative to others in the fields of clinical tissue engineering and transplantation or otherwise renders him well positioned to advance his proposed endeavor. The record also includes a reference letter in which Dr. [redacted] professor of pulmonary diseases at the [redacted], states that the Petitioner has an impressive publication record. However, the professor does not indicate how this publication record compares to others in the fields of tissue engineering and transplantation.

We acknowledge the Petitioner's argument on appeal that publication of his research in journals with high impact factors, such as *Surfaces and Interfaces*, *European Polymer Journal*, and *Transplantation*, demonstrates that "his findings hold considerable value for his entire field in addition to his area of specialty." However, while the elevated ranking of these journals may be one factor contributing to a showing of an individual researcher's record of success, we may not assume that every article published in a high-ranking journal is indicative of a record of this success.

The record also includes original research articles summarizing and citing research co-authored by the Petitioner. For example, the authors in "Development and Psychometric Properties of the Test of Passive Aggression" reference the Petitioner's work in stating that "[h]igher levels of passive aggressive defense mechanism are associated with more severe symptoms of … adjustment disorder …" while the authors of "Improved Skin Regeneration with [redacted]" use the Petitioner's work as an example of the "allograft processing method", However, the Petitioner does not offer additional evidence to explain how or demonstrate that articles summarizing his research are indicative of his influence in his field or demonstrate adoption of his work.

Reference letters in the record also discuss the Petitioner's research. A professor of neurosurgery at [redacted] states that the Petitioner's research on "improving the quality of life for individuals with spinal cord injuries" has "shaped ongoing discussions on [spinal cord injury] treatment within the medical community." In her letter, Dr. [redacted] describes how the Petitioner's research led to "development of a groundbreaking method for harvesting and processing tissue" and that this work "provides a more effective and accessible solution for surgeons." However,

these letters do not offer specific examples of how the Petitioner's findings have been implemented, utilized, or applauded by others in the field in a manner demonstrating that he is well positioned to advance his proposed endeavor.

The next factors applicable to the second prong of the *Dhanasar* framework are a model or plan for future activities and any progress towards achieving the proposed endeavor. The Petitioner emphasizes on appeal that he intends to pursue employment opportunities at companies known to be leaders in the field of clinical tissue banking and transplantation. He explains that through this employment he will have access to the facilities, faculties, and funding to continue the research as outlined in his proposed endeavor. In cases such as this one, where the Petitioner does not intend to be self-employed, a job offer or communications with prospective employers, while not required, may be relevant to demonstrate the circumstances or capacity in which the person intends to carry out the endeavor and the feasibility of that plan.[4] Upon review the record lacks evidence sufficient to establish the Petitioner's pursuit of such employment or of these companies' interest in employing him as a researcher scientist. Further, it lacks sufficient evidence to explain or demonstrate how he will have access to the means and financial support to undertake his proposed endeavor absent this employment. Without sufficient evidence demonstrating the means or financial support to undertake his proposed clinical tissue engineering and transplantation research in the United States, the Petitioner has not shown that his plan for future activities renders him well-positioned to advance his proposed endeavor.

The Petitioner also contends on appeal that a comparison of the Google Scholar document initially submitted with the updated one provided with his RFE response establishes his progress towards achieving his proposed endeavor. However, he does not indicate which metrics on these documents should be compared or offer an explanation or other evidence to demonstrate that these metrics are indicative of progress towards achieving his proposed endeavor.

An additional factor applicable to the second prong of the *Dhanasar* analytical framework is the interest or support garnered by the petitioner from potential customers, users, investors, or other relevant entities or persons. Here the Petitioner asserts that reference letters in the record demonstrate "considerable interest" in his work from his colleagues and peers. However, as discussed above, the reference letters lack sufficient detail of interest in the Petitioner's work by their authors to establish this. Further, the Petitioner argues that as his work has been published in highly ranked journals, this reflects the interest of the editors of these journals in his work. However, he does not provide sufficient evidence to corroborate this assertion. By contrast, in *Dhanasar* we noted that the record included "detailed expert letters describing U.S. Government interest and investment in his research" and "documentation that the petitioner played a significant role in projects funded by grants from the National Aeronautics and Space Administration ("NASA") and the Air Force Research Laboratories ("AFRL") within DOD." *Matter of Dhanasar*, 26 I&N Dec. at 892-893. Here the record does not reflect sufficient interest from potential customers, users, investors, or other relevant entities or individuals to demonstrate that the Petitioner is well positioned to advance his proposed endeavor.

The record demonstrates that the Petitioner has conducted, published, and presented research during his professional career, but he has not shown that this work renders him well positioned to advance his

[4] *See generally* 6 *USCIS Policy Manual*, *supra*, at 5.F.(D)(1).

proposed research. While we recognize that research must add information to the pool of knowledge in some way in order 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 his 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 published and presented work has served as an impetus for progress in the fields of clinical tissue engineering or transplantation or that it has generated substantial positive discourse in these fields. Nor does the evidence otherwise show that his work constitutes a record of success or progress in advancing research relating to tissue engineering and transplantation or that it has garnered the considerable interest and support claimed by the Petitioner on appeal. The record is therefore insufficient to demonstrate that the Petitioner is well positioned to advance his proposed research endeavor.

As the Petitioner has not demonstrated that he is well positioned to advance the proposed endeavor as required by the second prong of the *Dhanasar* precedent decision, he has not demonstrated that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. This identified reason for dismissal is dispositive of the Petitioner's appeal, and thus, we decline to reach and hereby reserve remaining arguments concerning his eligibility under the first and third prongs of the *Dhanasar* framework. *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).

ORDER: The appeal is dismissed.