U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33940769

Date: OCT. 23, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an industrial engineer researcher, 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 section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Workers (national interest waiver), concluding the Petitioner 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v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).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 Director determined that the Petitioner established eligibility for the underlying EB-2 classification as an advanced degree professional. The remaining issues on appeal are whether the Petitioner has established the national importance of his proposed endeavor under Dhanasar's first prong, that he is well-positioned to advance his proposed endeavor under the second prong, and that on balance waiving the job offer requirement would benefit the United States under the third prong. For the reasons discussed below, we withdraw the Director's finding that the Petitioner did not demonstrate the national importance of his proposed endeavor under the first prong of the Dhanasar analytical framework but agree that the Petitioner has not sufficiently demonstrated he is well-positioned to advance his proposed endeavor under the second prong of the Dhanasar analytical framework.

In 2020, the Petitioner completed his master of science in industrial engineering program in Iran. In 2022 he began working as a graduate research assistant at the [redacted] where he is currently pursuing his doctorate degree. According to his personal statement, his current research involves analyzing the effectiveness of transportation network resiliency strategies and the results of his work are expected to be published.

In his national interest waiver petition, the Petitioner identified his occupation as industrial engineer, and his proposed job title as postdoctoral researcher. The Petitioner stated his proposed endeavor is to develop state of the art solutions for improving supply chain conceptual models to ensure sustainable supply chains for a wide variety of industries. In response to the Director's Request for Evidence (RFE), the Petitioner submitted an updated statement detailing his proposed endeavor as using his research to:

- Assess the current state of transportation network resiliency in the face of natural disasters;
- Work on creating advanced models that can accurately predict the impact of various types of natural disasters on transportation networks, forecast disruptions, and assist proactive planning and decision-making for transportation authorities; and
- Pilot new and innovative resilience strategies to maintain operational continuity during crises.

The Petitioner submitted documents in support of his national waiver petition, which included: a personal statement and updated personal statement; documents relating to his academic record; recommendation letters; an offer letter; peer-reviewed articles; notable citations to his articles; citation data; articles on how to interpret citation records; and reports on optimizing, reshaping, and effects of disruptions of supply chain transportation. On appeal, the Petitioner submits a brief, a list identifying industrial engineering as a Science, Technology, Engineering, or Mathematics (STEM) degree, and a government memorandum on research and development priorities.

A. Substantial Merit and National Importance

The Director determined that the Petitioner established the substantial merit of his proposed endeavor but did not establish its national importance.

In determining whether the proposed endeavor has national importance, we focus on "the specific endeavor that the foreign national proposes to undertake" and consider its potential prospective impact. Matter of Dhanasar, 26 I&N Dec. at 889. In Dhanasar, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." Id. We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." Id. at 890.

The Director determined the Petitioner's proposed endeavor was not nationally important because the Petitioner had not established it had significant potential to employ U.S. workers or had other substantial positive economic effects, particularly in an economically depressed area. However, as discussed above, these are not the only factors that may establish the national importance of a proposed endeavor.

The Petitioner's proposed endeavor, which falls within a STEM field, involves researching to improve the nation's supply chain transportation. The Petitioner cites to the USCIS policy manual and submits a White House Memorandum on Research and Development Priorities for fiscal year 2024 documenting the government's interest in prioritizing research and development investments that support supply chain resilience. He also submitted in the record below reports discussing the economic effects of disruptions and optimizations of supply chain transportation and the potential significance of U.S. advances in this area of research and development. USCIS recognizes the importance of progress in STEM fields and the essential role of persons with advanced STEM degrees in fostering this progress, especially in STEM areas important to U.S. competitiveness. See generally 6 USCIS Policy Manual F.5(D)(2), https://www.uscis.gov/policymanual. The Petitioner has demonstrated that his specific endeavor of improving supply chain transportation through research aligns with the White House's priority of improving technology relevant to supply chain resilience and would have national implications within the field. Furthermore, the Petitioner has submitted documentation indicating that the benefit of his proposed research has broader implications for the field, as the results would be disseminated to others in the field through scientific journals and conferences. Looking at the evidence in its totality, the Petitioner has sufficiently demonstrated by a preponderance of the evidence the national importance of his proposed endeavor. We therefore withdraw the Director's determination on national importance and conclude that by establishing the substantive merit and national importance of his proposed endeavor, he meets the first prong of the Dhanasar framework.

B. Well-positioned to Advance the Proposed Endeavor

The second Dhanasar prong shifts the focus from the proposed endeavor to the individual. Matter of Dhanasar, 26 I&N Dec. at 890. Under this prong, to determine whether petitioners 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 Director determined the Petitioner had not established his presented work served as an impetus for progress in the field or generated positive discourse in the broader field of industrial engineering to constitute a record of success or progress in his area of endeavor. On appeal, the Petitioner claims that the Director improperly factored in the influence of the Petitioner's work in determining he was not well-positioned when Dhanasar does not require the Petitioner to demonstrate influence in the field, and therefore held the Petitioner to a higher evidentiary standard by finding he has not influenced his field. He further asserts that the Director did not otherwise properly review and weigh all the evidence in analyzing whether he satisfied the second Dhanasar prong, specifically the evidence submitted to address the concerns in the Director's Request for Evidence (RFE).

The Director did not improperly hold the Petitioner to a heightened evidentiary standard by assessing his influence in his field in determining whether he is well-positioned to advance his proposed endeavor. While we agree that Dhanasar did not specifically mandate a showing of influence as a factor to consider whether a petitioner is well-positioned to advance his proposed endeavor, the decision also did not limit the factors we may consider. See id. at 890 (identifying factors we consider under the second prong as "including, but not limited to"). In fact, in finding that the petitioner in Dhanasar was well positioned, we relied on, in part, "the significance of the petitioner's research in his field" as corroborated by evidence of peer and government interest in his research and consistent government funding on his research projects. Id. at 893.

Moreover, the Director's assessment of the evidence under Dhanasar *'s* second prong is also consistent with USCIS policy guidance, which identifies evidence of whether the person's work has influenced the field of endeavor as relevant evidence that may demonstrate a petitioner is well-positioned to advance his proposed endeavor. See generally 6 USCIS Policy Manual, supra, at F.5(D)(1) (providing, as guidance, many examples of evidence that may demonstrate a person is well-positioned to advance their proposed endeavor). The Director identified the relevant evidence submitted, including in response to the RFE, and sufficiently analyzed the overall record under the applicable preponderance of the evidence standard to conclude that the Petitioner is not well-positioned to advance his proposed endeavor.

On appeal, the Petitioner asserts that his master's degree in industrial engineering and his current work as a researcher at the [redacted] evidence his education, skills, knowledge and record of success and thereby establishes that he is well-positioned to advance his proposed endeavor. Education, skills, knowledge, and record of success are some factors among many that may contribute to a finding that a petitioner is well-positioned to advance their proposed endeavor. Matter of Dhanasar, 26 I&N Dec. at 890. Although the Petitioner asserts that his advanced degree in a STEM field is an "especially positive factor," it is not a sufficient basis to determine that he is well positioned to advance his proposed endeavor. See generally 6 USCIS Policy Manual, supra, at F.5(D)(2) (providing, as guidance, that we look to a variety of factors and education is merely one among many that may contribute to whether an individual is well-positioned to advance their proposed endeavor). Further, while we acknowledge that the Petitioner is currently researching the effectiveness of transportation network resiliency strategies, and has conducted, published, and presented research

while obtaining his master's degree and in obtaining his doctorate, he has not demonstrated a record of success in similar efforts with respect to his research, as we discuss below.

The Petitioner also argues the Director did not give sufficient weight to his publications and citation history and requests we review the notable citations to his work that he summarized in his RFE response and contained in his advisory opinion letters. The Petitioner asserts that being published in highly cited journals and being cited by other researchers demonstrate his success and interest in his work.

In the record below, the Petitioner provided a list of ten peer-reviewed articles he first-authored and co-authored. Of those listed, he stated four of the articles had high citation rates for the industry according to his Google Scholar profile and Clarivate Analytics (CA). He was first author in two of the four, published in 2019 with 32 citations and in 2022 with 35 citations respectively. The other two articles, on which he was the fourth author, were published in 2021 with 41 citations and in 2023 with three citations respectively. The Petitioner did not specify how many citations for each of these individual articles were self-citations by him or his coauthors. The Petitioner also submitted data from CA providing baseline citation rates and percentiles by year of publication for the engineering field and claimed his citations from his articles ranked among the top 20%. However, the documentation from CA states that "[c]itation frequency is highly skewed, with many infrequently cited papers and relatively few highly cited papers. Consequently, citation rates should not be interpreted as representing the central tendency of the distribution." Furthermore, the citation information concerns the larger field of engineering and compares his citation frequency in industrial engineering to that of the larger field. While industrial engineering is part of the field of engineering, the Petitioner does not submit sufficient evidence confirming that information extrapolated from the larger field applies equally to each subfield within engineering, including industrial engineering. The Petitioner also claimed that the "OpenAlex" data he submitted reflects that he is among the top 0.12% of researchers in the field in terms of citation impact. However, the evidence does not indicate the source of the data as "OpenAlex," and the Petitioner did not show how "OpenAlex" calculates the percentile figures. Moreover, citation frequency, which may include self-citations, is quantitative in nature and does not reveal the reasons for the citations, which involve a qualitative analysis. The Petitioner has therefore not demonstrated that the number of citations received by his four published articles, in and of themselves, reflect a record of success in similar efforts to meet *Dhanasar's* second prong.

The Petitioner also submitted recommendation and advisory opinion letters,[2] which described the Petitioner's research, the studies that cited to or acknowledged the Petitioner's findings, and the findings of those studies and claimed that his work has immensely benefitted academia and the industry. However, the authors of these letters do not provide sufficient detail explaining the significance of the Petitioner's past research, or how it has affected the field or industry to demonstrate a history of accomplishment and success and progress towards achieving his proposed endeavor. For example, one of the authors claimed the Petitioner's model for managing home healthcare temporal dependencies and uncertainties advanced home healthcare logistics but did not explain how it did so or the broader implications of the Petitioner's model in his field. See generally 6 USCIS Policy Manual, supra, at F.5(D)(1) (providing, as guidance, examples of evidence that may establish that a petitioner is well-positioned, including letters from experts in the person's field, describing their past

[2] While we do not discuss each of these letters, we have reviewed and considered each one.

achievement and providing specific examples of how they are well positioned to advance the person's endeavor, and evidence demonstrating how the person's work is being used by others, such as contracts with companies to use the person's products, patents or licenses for innovations the person developed).

In his response to the RFE, the Petitioner discussed about 15 published articles by others citing his work in the record below, claiming the researchers followed his methodology, were influenced by his research, incorporated his research, credited him for his strategies, acknowledged his research, gleaned critical insights from his work, and were inspired by his research. As a result, he claimed his research is leading to other breakthroughs in the field and advancing industrial engineering. The Petitioner provided only excerpts of the articles, which we have reviewed. The Petitioner emphasized two studies, claiming one held his algorithms up as a stellar example. However, the author of the study briefly noted in the article that while the transportation models used by the Petitioner can lead to "a more effective solution," the models were not time efficient. The Petitioner highlighted a second article which cited three of his published articles and claimed this demonstrates he is a pioneer in the industrial engineering field. However, this study only noted the existence of the Petitioner's findings in discussing the findings of various studies and did not discuss the broader impact of the Petitioner's research. The remaining excerpts noted one of Petitioner's studies provided "good results," another stated one of his studies provided good results for small sized instances. Other articles noted the Petitioner's work in a string with others and remarked on the type of method used by the Petitioner as compared to other researchers but with no further analysis of whether his methodology was adopted by the author or deemed as successful. The Petitioner has therefore not shown that his work and research establish a record or success beyond having been referenced in published works. See generally 6 USCIS Policy Manual, supra, at F.5(D)(1) (providing, as guidance, examples of establishing a petitioner is well-positioned, including excerpts of published articles showing positive discourse around, or adoption of, the person's work).

The Petitioner further asserts his personal statements represent his model plan for his proposed endeavor. According to the statements, the Petitioner will work on his proposed endeavor while pursuing his doctorate degree, then continue as a postdoctoral researcher at his current university. We acknowledge an offer letter, dated January 2024, by the director of the Data Science and Analytics Institute at the [redacted] proposing to hire the Petitioner as a postdoctoral researcher in August 2026, upon the Petitioner's expected graduation with his doctorate degree. However, neither the offer letter nor the Petitioner's personal statements explain how the Petitioner's expected duties relate to his proposed endeavor such that the offer evidences he is well-positioned to advance his proposed endeavor.

The Petitioner's evidence also does not demonstrate that he has generated interest among potential customers, users, investors, or other relevant entities or individuals in his proposed endeavor involving supply chain transportation. In Dhanasar, we noted that the petitioner had conducted research and postgraduate research that he sought to continue as his proposed endeavor and that he had developed a validated computational model and a novel numerical method for calculating data relevant to his proposed endeavor. Id. at 891. We also discussed the significance of the petitioner's research in his field, which was corroborated by evidence of sustained peer and government interest in his research, as well as by consistent government funding of the petitioner's research projects. We factored this in determining the Petitioner was positioned well to continue to advance his proposed

endeavor. Id. at 893. Here, as discussed above, the Petitioner's proposed endeavor entails researching transportation systems to create advanced models predicting disruptions in supply chain transportation, and to pilot resilience strategies. We acknowledge some of the Petitioner's published research involved research on transportation systems. However, the Petitioner has not provided evidence that he himself previously received funding for his research or has secured funding to continue pursuing his specific proposed endeavor in the future. The Petitioner asserts that his advisory letters evidence that he has generated interest in his work by the authors of the letters. However, none of the authors mentioned their or their academic institutions' interest in supporting or funding the Petitioner's proposed endeavor. The Petitioner also states that the citations to his work are from researchers all over the globe, who have taken an interest to his work. However, he has not demonstrated that this interest is a sustained one or has resulted in investment to advance his proposed endeavor. See generally 6 USCIS Policy Manual, supra, at F.5(D)(1) (providing, as guidance, examples of establishing a petitioner is well-positioned, including investment from U.S. investors in his proposed endeavor, or awards or grants or other indications of relevant non-monetary support from federal, state, or local government entities with expertise in economic development, research and development, or job creation).

The evidence indicates that the Petitioner has conducted, published, and presented research while obtaining his master's degree and in currently pursuing his doctorate. 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 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 potential customers, users, investors, or other relevant entities or individuals supports such a finding. Id. at 890. Based on our de novo review, the record is insufficient to demonstrate that the Petitioner is well-positioned to advance his proposed endeavor, and the Petitioner has not established that he satisfies the second prong of the Dhanasar framework.

C. Whether on Balance a Waiver is Beneficial

The third prong requires a petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. Matter of Dhanasar, 26 I&N Dec. 884. However, as the Petitioner has not established that he meets the second prong of the Dhanasar framework, the Petitioner has not shown that he is eligible for and otherwise merits a national interest waiver, and we therefore reserve the Petitioner's arguments with respect to this issue. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) ("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

The Petitioner has not shown that he is eligible for and otherwise merits a national interest waiver of that classification's job offer requirement.

ORDER: The appeal is dismissed.