U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42214092

Date: APR. 22, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a research scientist, 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 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

SCOPS determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. Based upon the evidence in the record that the Petitioner possesses a master of science degree in electrical and computer engineering from [redacted] we agree. The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement is in the national interest. For the reasons discussed below, we agree with SCOPS that the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Matter of Dhanasar*.

A. The Proposed Endeavor Has Both Substantial Merit and National Importance

The first prong of the *Dhanasar* framework focuses on the specific endeavor that the individual proposes to undertake. An endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, sciences, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

The Petitioner's proposed endeavor is to design novel, efficient, and robust sensor data processing methods and machine learning algorithms for advanced mobile sensing modalities. The Petitioner intends to focus on smart wearable devices and Internet of Things [IoT] devices to design new sensing methods for improved interaction, user experience, and privacy protection. The Petitioner states that he intends to pursue this endeavor in a research scientist role "with a particular focus on positions at leading technology companies like [redacted]" The Petitioner asserts that his research focus "aligns perfectly with [redacted] commitment to privacy-preserving technology and innovative mobile sensing solutions" and that "Apple has consistently demonstrated leadership in implementing advanced wireless multi-modal sensing modalities and privacy-preserving technologies in their products. . . ."

In support of the substantial merit and national importance of the proposed endeavor, the Petitioner submitted evidence regarding the increasing use of IoT devices and wearable technology and the potential applications for such devices in improved health monitoring, banking security, search and rescue, and surveillance, and the potential risks and concerns for privacy and security with these devices. Additionally, the Petitioner submitted evidence that the proposed endeavor relates to artificial intelligence, data privacy and security, and data sensor processing, each of which is identified as a critical and emerging technology area by the [redacted]

Based upon the evidence that the proposed endeavor relates to advancing an area of science and technology, we conclude that the endeavor has substantial merit. Additionally, based on the evidence of the increasing usage and benefits of IoT and wearable devices, the potential for the proposed endeavor to impact the safety, security, and effectiveness of these devices, and its potential to impact areas of critical and emerging technologies, we conclude that the proposed endeavor has national importance.

As such, we withdraw SCOPS' finding that the Petitioner did not establish the first prong of the *Dhanasar* framework and conclude that the Petitioner has established this requirement.

B. The Petitioner Has Not Established That He Is Well-Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual, and whether they are well-positioned to advance it. *Matter of Dhanasar*, 26 I&N Dec. 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. *Id.*

The record includes the Petitioner's curriculum vitae, academic records, published works, recommendation letters, and information regarding the Petitioner's citation record. The Petitioner emphasizes on appeal that his citation record is significant, demonstrates his influence on the field, and was improperly disregarded by SCOPS.

On appeal, the Petitioner provides an "overview of the evidence of record in support of" to demonstrate the Petitioner is well positioned to advance the proposed endeavor. Upon our de novo review of the record and the Petitioner's overview on appeal, we conclude the Petitioner is not well-positioned to advance the proposed endeavor and withdraw SCOPS determination to the contrary.

Turning to the factors enumerated in *Matter of Dhanasar* for evaluating evidence under the second prong, we conclude that the Petitioner's education, skills, and knowledge are positive factors in determining whether he is well-positioned to advance the proposed endeavor. The Petitioner possesses a master of science degree in a field related to his proposed endeavor and his published research shows that he has developed skills that would be useful in continuing to research sensor data processing and privacy improvements in mobile and wearable devices. However, the Petitioner did not possess a doctor of philosophy (Ph.D.) in his field as of the time of filing.[2] In support of establishing his record of success, the Petitioner refers to his publication history and citation record and contends that the record demonstrates the significance of his work and its impact on the field. Upon de novo review, we agree that the evidence appears to demonstrate that the published work that the Petitioner has contributed to has been cited frequently by independent researchers at a rate that is high relative to others in the field.

However, we conclude that the evidence in the record weighs against demonstrating the next enumerated factors in the second prong—the Petitioner's model or plan for future activities and any progress towards achieving the proposed endeavor. Regarding these factors, the Petitioner states that he intends to pursue his endeavor through employment as a research scientist at a technology company such as [redacted] Although the Petitioner may have the intention to pursue a position as a research scientist with a technology company in the United States, the record lacks sufficient evidence relating

[2] We consider an advanced degree, particularly a Ph.D., in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology an especially positive factor to be considered along with other in assessing the second prong. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual.

to the Petitioner's progress in pursuing such a position and lacks specificity regarding whether such a position would sufficiently enable the Petitioner to pursue his endeavor. For example, the Petitioner did not provide evidence of communications demonstrating interest from prospective employers, evidence regarding potential offers, or details regarding what duties a potential position would entail.[3] Without such specifics, we are unable to evaluate the specific circumstances and capacity in which the Petitioner's future employment would enable him to pursue and advance his endeavor and the feasibility of doing so.

The Petitioner seeks a national interest waiver of the job offer requirement. Therefore, an offer of employment is not a requirement for approval, nor do we consider the lack of a job offer to be a negative factor in analyzing the evidence, depending on the specific circumstances of the case. However, in this instance, the Petitioner's own stated intention for advancing his endeavor requires an offer of employment, and he has not provided documentary evidence of pursuing this employment or any specific steps taken towards achieving employment. In contrast, the petitioner in *Matter of Dhanasar* was already employed as a postdoctoral research associate at a university, was performing research and development related to his proposed endeavor at this university, and intended to continue to do so. *See Matter of Dhanasar*, 26 I&N Dec. at 891.

The final factor enumerated in *Matter of Dhanasar* relates to evidence of interest of potential customers, users, investors, or other relevant entities or individuals. 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. On appeal, the Petitioner emphasizes his publication record including peer-reviewed journal articles, conference articles, and conference demos, contends that his work has been published in a prestigious journal with a high impact factor, and asserts that his work has been highly cited by other researchers. As stated above, we consider the interest from other researchers in the Petitioner's published work to be a positive factor in showing his record of success in related or similar efforts. But the record lacks evidence to demonstrate other types of interest, such as interest from potential customers, users, investors, employers, or other relevant entities, that would demonstrate that there is sufficient interest in the Petitioner pursuing the proposed endeavor and enabling him to do so, through funding, employment, or other means, such that he would be well-positioned to advance it.

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. The Petitioner's knowledge, skills, and record of success in related efforts, as demonstrated by his publication history, citation record, and recommendations from other researchers, are positive factors. However, they are not sufficient to overcome the lack of evidence to demonstrate a model or plan for future activities, the lack of specifics regarding the capacity in which he would be able to pursue his proposed endeavor, and the lack of evidence demonstrating interest from potential investors, employers, or other relevant entities. In

[3] In the case of a petitioner who does not intend to be self-employed, we consider a job offer or communications with prospective employers, while not required, to be 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, supra,* at F.5(D)(1), https://www.uscis.gov/policy-manual.

considering the record in totality, we conclude that the Petitioner has not established that he is well-positioned to advance the proposed endeavor and withdraw SCOPS' conclusion to the contrary.

C. Whether, on Balance, Waiving the Job Offer Requirement Would Benefit the United States

If the Petitioner met the eligibility requirements contained in the first and second prongs of the *Dhanasar* framework, we would have moved to evaluating whether, on balance, the Petitioner had demonstrated that it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

In evaluation applicability of the third prong, one could have have considered the impracticality of a labor certification, the benefit to the U.S. of a petitioner's contributions, the urgency of a petitioner's contributions to the national interest, the capacity for job creation, and any adverse effects on U.S. workers when conducting the balancing of the national interests of waiving the requirements of a job offer and therefore a labor certification.

The record here does not demonstrate the Petitioner's eligibility under the first two prongs of the *Dhanasar* framework. But even if the first two prongs had been met, the petition could not have been approved because the record does not satisfy the third prong. The record does not contain sufficient evidence of factors like the impracticality of a labor certification, the benefit to the U.S. of a petitioner's contributions, the urgency of a petitioner's contributions to the national interest, the capacity for job creation, and any adverse effects on U.S. workers. So it is not evident in the record, on balance, that the requirement of a job offer and thus a labor certification, should be waived for the Petitioner.

III. CONCLUSION

The Petitioner has not met the requisite second and third 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.