U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38613535

Date: AUG. 1, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a mechanical engineer and 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* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

SCOPS denied the petition, concluding that the record did not establish that a waiver of the required job offer, and thus of a 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;
- 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.

Id.

II. ANALYSIS

The Petitioner proposes to "continue working on the research and development of novel thermal batteries and utilize [her] expertise in thermal-fluid systems and mechanical engineering analysis related to thermal-fluid systems and mechanical engineering analysis related to thermal systems to help the U.S. reach its industrial decarbonization goals." Particularly, the Petitioner intends to "continue working on a specific thermal battery called [redacted])." She explains in part that [redacted] "functions as a thermal energy storage system that can retain heat at temperatures up to 1800°C, addressing the diverse thermal requirements of industrial processes." SCOPS found that the Petitioner qualified as a member of the professions holding an advanced degree.[2] The sole issue to be determined 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. For the reasons 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

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of 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.*

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* The Petitioner seeks to continue her pursuit of the proposed endeavor as a lead thermal modeling engineer at [redacted] Inc. SCOPS found that the Petitioner's proposed endeavor which could significantly contribute to the decarbonization efforts in the United States had substantial merit; and had national importance because the Petitioner's proposed research endeavor had the potential to be disseminated to other researchers in the field through publication in scientific journals and presentation at conferences thereby having broader implications for her field. We agree with SCOPS that the Petitioner met *Dhanasar*'s first prong.

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.*

[2] The Petitioner earned a Doctor of Philosophy degree (PhD) in mechanical engineering from the [redacted] Institute in 2022, and a Master of Science degree in mechanical engineering from [redacted] University in 2019.

In denying the petition, SCOPS concluded that the Petitioner did not demonstrate eligibility for a national interest waiver because she did not establish that she is well positioned to advance the proposed endeavor and 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. On appeal, the Petitioner contends that SCOPS abused its discretion by failing to properly evaluate the submitted evidence under the preponderance of the evidence standard. The Petitioner further contends that SCOPS made false and misleading statements in its analysis of the evidence, and it was unclear if SCOPS considered all the evidence.

The record includes documentation of the Petitioner's curriculum vitae, diploma, academic transcripts, peer-reviewed journal and conference articles, and Google Scholar citation record. The Petitioner also offered evidence of articles that cited to her published work, citation metrics, peer-reviewed conference and journal first-authored and co-authored articles, independent advisory opinions, letters of support, honorable mentions, and her receipt for the [redacted] Award in the [redacted] category from the [redacted] We acknowledge the Petitioner's filing of patents in July 2024, 12 days after filing the petition, and we further acknowledge that the research that went into these patents plausibly occurred years before the filing. Filing a patent is commendable; however, we are precluded from considering this evidence because a petitioner must establish all eligibility requirements for the immigration benefit have been satisfied from the time of filing and continuing through adjudication. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

The Petitioner maintains that she possesses the education, skills, and knowledge necessary to advance the proposed endeavor. We acknowledge that the Petitioner holds an advanced degree in a science, technology, engineering, or mathematics (STEM) field which is tied to her proposed work to develop mechanisms to improve thermal systems and reach industrial decarbonization. We further recognize the Petitioner's assertion that her work falls within a critical and emerging technology area, and we acknowledge the importance of progress in STEM fields and the role of individuals with advanced STEM degrees. Individuals with advanced STEM degrees, particularly those holding a PhD, play a key role in fostering progress, especially in areas vital to U.S. competitiveness and national security.[3] We therefore agree with the Petitioner that we consider her PhD in a STEM field tied to her proposed endeavor to be an especially positive factor for establishing the second *Dhanasar* prong. However, a degree in and of itself, is not a basis to determine that a person is well positioned to advance the proposed endeavor. *Id*. When evaluated in the context of the full record, the Petitioner has not shown that she is well positioned to advance her proposed endeavor as contemplated by *Dhanasar*. In addition to education, we look at a variety of factors in determining whether a petitioner is well positioned to advance their proposed endeavor and education is one factor among many that may contribute to such a finding. *Id.* In *Dhanasar*, the petitioner held three advanced degrees, including a PhD, tied to his proposed research which had significant implications for U.S. national security and competitiveness.

[3] "USCIS considers an advanced degree, particularly a doctor of philosophy (PhD.), 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 competitiveness 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, supra*, at F.5(D)(2).

To determine whether the petitioner in *Dhanasar* was well positioned to continue to advance his proposed endeavor, we also favorably considered the significance of his research which had been corroborated by evidence as having peer and government interest; the significance of his role in his research projects; consistent funding from government agencies of his research projects; and his position with a U.S. university where he intended to conduct his proposed research work. *Matter of Dhanasar,* 26 I&N Dec. at 892-93. Here, while we recognize the Petitioner's advanced degree and the general alignment of her academic background with her proposed research, a PhD, and a record of publications are not, on their own, sufficient to demonstrate that the Petitioner is particularly well positioned to advance the proposed endeavor.

The Petitioner asserts that the citations of her research "demonstrate a record of success in her field." We note that the Petitioner submitted data from Clarivate Analytics (CA) regarding baseline citation rates and percentiles by year of publication for different research fields. However, CA cautions 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." Notably, as SCOPS correctly observed, the citation information concerned the larger field of "engineering" and compares her citation frequency in mechanical engineering to that of the larger field. Moreover, citation frequency, which may include self-citations, is quantitative in nature and does not reveal the reasons for the citations, which involves a qualitative analysis. On appeal, the Petitioner contends that SCOPS did not explain "why it is unable to accept these statistics from a larger field simply because it included multiple subfields." However, the Petitioner did not submit sufficient evidence confirming that the information deduced from the larger field applies equally to each subfield within engineering, including mechanical engineering. Therefore, because of this inherent uncertainty, the Petitioner may not solely rely on CA to prove her contention.

On appeal, the Petitioner states that she "provided evidence demonstrating the profound significance of a single citation in the form of the OpenAlex citation statistics, but SCOPS ignored this evidence." She argues that data from OpenAlex shows that "a single citation would place an author publishing research in mechanical engineering during the period of 2018-2024 above the [redacted] percentile, indicating that of the 1.87 million authors publishing research in mechanical engineering during this period, half of them have not received even a single citation." The Petitioner submitted data claiming to be derived from OpenAlex reflecting [redacted]% for Citation Percentile and [redacted]% for Publication Percentile. However, while the Petitioner claims that this data is from OpenAlex, she does not show how OpenAlex calculates the percentile figures and how these represent independent citations. Regardless, the Petitioner has not established that the number of citations received by her published articles reflect a level of interest in her work from relevant parties sufficient to meet *Dhanasar's* second prong. Therefore, as with CA, the Petitioner may not solely rely on OpenAlex to prove her contention.

While we agree with the Petitioner that the citations, independent advisory opinions, and recommendation letters indicate some degree of interest in her research from her colleagues and peers in the field, this evidence alone is insufficient to demonstrate a level of interest or a record of research success that renders her well positioned. The Petitioner's citation record must be weighed alongside other qualitative indicators of impact and influence. The Petitioner therefore has not demonstrated that the number of citations received by her published journals and articles, in and of themselves,

reflect a record of success in similar efforts to meet *Dhanasar's* second prong. Moreover, we do not consider the fact that the Petitioner's prior published works have continued to accumulate citations to be evidence of the Petitioner's own progress toward achieving her endeavor.

Further, while we listed Dr. Dhanasar's "publications and other published materials that cite his work" among the documents he presented, our determination that he was well positioned under the second prong was not based on his citation record. Rather, in our precedent decision, we found "[t]he petitioner's education, expertise, and experience in his field, the significance of his role in research projects, as well as the sustained interest of and funding from government entities such as NASA and AFRL, position him well to continue to advance his proposed endeavor of hypersonic technology research." *Dhanasar,* 26 I&N Dec. at 893.

The record includes independent advisory opinions, recommendation letters, and testimonial statements that commend the Petitioner's research projects and her contributions to the field. For instance, in his letter of recommendation, Dr. [redacted] Associate Professor in the Department of Mechanical and Electrical Engineering at the [redacted] wrote as follows:

> In our 2024 paper titled "[redacted]," my research team and I built upon [the Petitioner's] findings. Our team focused on improving pulp drying efficiency and referenced her research on ultrasound-assisted drying (UAD) for paper products. Based on her work, we validated UAD's effectiveness in enhancing drying rate and energy efficiency. Our application of UAD underscores the broader impact and importance of her contributions, demonstrating her leadership in advancing energy-efficient drying technologies and providing critical foundational data for future research in mechanical engineering.

Below, SCOPS noted that the letters did not demonstrate how the Petitioner's work has been implemented, utilized, or applauded at a level that would make her well positioned to advance her proposed endeavor. Thus, while this letter is an example of the supportive tone of the recommendation letters, it lacks sufficient specificity in demonstrating how the Petitioner's work has changed the course of other research efforts.

The Petitioner submitted information about a grant her work received from the Department of Energy. However, the evidence indicates that the Petitioner was not the primary award recipient or principal investigator, although we note that she is listed among nine other key personnel. Furthermore, the record lacks sufficient detail regarding the Petitioner's special role or responsibilities in securing these funds. While the record shows that the Petitioner participated in projects that received funding, without clear documentation of her contributions to the funding process, it cannot be concluded that this grant is indicative of her individual merit or her capacity to independently advance significant research endeavors. 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. *Id.* at 893, Fn. 11. Here, although the Petitioner had some involvement in a grant from the Department of Energy, the evidence submitted does not sufficiently demonstrate that the Petitioner is well positioned to independently secure funding or lead the advancement of her proposed endeavor.

The record demonstrates that the Petitioner has conducted and published research, but she has not shown that this work renders her well positioned to advance her proposed research. 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 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. In considering the record in totality, particularly the fact that the Petitioner has not demonstrated the ability to pursue her proposed endeavor in the United States through other potential funding that would allow the Petitioner to pursue her endeavor, we conclude that the Petitioner has not established that she is well positioned to advance the proposed endeavor.

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 she meets the second prong of the *Dhanasar* framework, the Petitioner has not shown that she 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

As the Petitioner has not met the requisite second prong of the *Dhanasar* analytical framework, we determine that she has not established she 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 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.