U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38906236

Date: AUG. 15, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is an automotive engineer who 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 (NIW) 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 Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the record established that the Petitioner qualified for the underlying EB-2 visa classification, but did not merit a discretionary waiver of the job offer requirement in the national interest. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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 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

SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree.[2] The only issue left on appeal 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. The Petitioner is an automotive engineer with a focus in the design of automated systems for autonomous, electric, and hybrid vehicles.

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. *Id.* 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.*

On appeal, the Petitioner alleges SCOPS made the incorrect determination relating to the proposed endeavor's substantial merit. He also claims they applied the incorrect legal standard under his national importance claims, ignored evidence of the endeavor's broad impact, and committed other irregular errors under *Dhanasar's* first prong.

1. Substantial Merit

The Petitioner proposes to aid in the development of safety features relating to braking technologies. Those features are currently being designed and are intended for application on some vehicle models at two automakers. SCOPS determined he did not demonstrate the proposed endeavor has substantial merit expressing concerns the Petitioner did not illustrate a broader impact beyond his future place of employment.

Some endeavors have the potential to satisfy this requirement without immediate or quantifiable economic impacts such as those "related to research, pure science, and the furtherance of human knowledge." *Id.* The Petitioner demonstrated his work in this area will assist in the creation of systems making some vehicles safer on American roads. We withdraw SCOPS' determination that the Petitioner did not establish the substantial merit of his proposed endeavor under *Dhanasar's* first prong.

2. National Importance

Moving to whether the proposed endeavor is nationally important under the standard in *Dhanasar*, we ultimately conclude that he has not. The Petitioner claimed his proposed endeavor has national and global implications within the automotive industry, it facilitates the employment of U.S. workers, it has significant positive economic effects on economically depressed areas, it broadly enhances societal

[2] The Petitioner earned a Master of Science in Automotive Engineering from an U.S. institution of higher education.

welfare through improving the safety of automobiles, and U.S. government initiatives relate to advancing domestic automotive manufacturing and safety. Within the initial filing the Petitioner provided an account of his role in the endeavor:

> As a Systems Engineer III in Research and Development (R&D) department [], I play a leading role in the execution of many of the company's high-level research projects on behalf of domestic automotive industry leaders. . . . I was tasked with leading ongoing efforts to refine automated braking systems to support next-generation vehicles. Specifically, I am playing a critical role leading the development and implementation of [our] second generation [braking] systems. This innovative system is slated for integration into numerous customer vehicles . . . equipped with Advanced Driver Assistance Systems (ADAS) features and Automated Systems. [The company's braking system] is poised to serve as the linchpin technology in these autonomous vehicles, leading to improved safety and simplicity in driving.

The Petitioner expanded somewhat on the proposed endeavor in his response to SCOPS' request for evidence. In the denial, SCOPS concluded the record did not establish the endeavor would have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for the United States. SCOPS informed the Petitioner the endeavor should extend beyond a single company, its operations, and its clientele at a level sufficient to demonstrate its national importance showing it will have a broader impact on the advanced safety features field, industry, or U.S. economy. SCOPS also stated he did not submit evidence which shows that his work will broadly enhance societal welfare or cultural or artistic enrichment. And finally, they noted the Petitioner did not explain whether his work would be disseminated to the field, nor did he offer evidence supporting his statements that his work would move the field of advanced safety features forward.

a. Legal Standard Claims

Under the Petitioner's first argument, he takes issue with some of the language SCOPS utilized relating to what the evidence must demonstrate. The Petitioner pushes back on SCOPS' statement that his proposed endeavor must have "an effect on the United States as a whole." Also, that he must demonstrate the endeavor "will have a broader impact on the advanced safety features field, industry, or U.S. economy."

On the first issue, the Petitioner notes having an effect on the United States as a whole is a remnant of the previous precedent decision for NIWs and we agree with this point. In doing so, we note SCOPS utilized this errant phrase one time in the decision and it does not appear they relied on it as a standard in which to hold the Petitioner's evidence. It therefore appears to amount to a harmless or a scrivener's error. *See, e.g.*, *Matter of O-R-E-*, 28 I&N Dec. 330, 350 n.5 (BIA 2021). As to the Petitioner's second argument, we do not agree that SCOPS mandated "an impact on the entire industry/field" as he claims. SCOPS did not utilize such language nor does the Petitioner describe how they employed that method. But we note *Dhanasar* does require the proposed endeavor to "impact the field . . . more broadly." *Matter of Dhanasar*, 26 I&N Dec. at 893.

b. Allegation That SCOPS Ignored Evidence

Here, the Petitioner claims SCOPS ignored evidence supporting his three primary claims under national importance. First, relating to public safety, then technological innovations, and finally, economic impact.

Public safety. The Petitioner claims the type of work on braking systems he performs as part of his proposed endeavor for his employer is installed on some [redacted] and [redacted] vehicles—and by extension—to everyone sharing the road with these vehicles. As presented in the appeal brief:

> If these vehicles are safer because they can stop more effectively, then everyone on the road with these vehicles is also safer. This evidence is directly in line with the January 15, 2025, policy memo in that it shows an impact on the "public at large." This evidence shows that [the Petitioner's] endeavor has a direct impact on U.S. road safety and, therefore, public health.

This extrapolation to the entirety of the population sharing the road with the relevant vehicles stretches his claimed benefit too far. When we evaluate national importance, the relevant question is not the importance of the industry or profession in which the alien will work. Rather, we focus on the "the specific endeavor that the alien proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. A petitioner must demonstrate the proposed endeavor will "impact the field . . . more broadly" (*Id.* at 893) and that it has "broader implications" (*Id.* at 889). Such endeavors may have "national or even global implications within a particular field" (*Id.* at 889), "significant potential to employ U.S. workers or [have] other substantial positive economic effects" (*Id.* at 890), or has the potential to widely advance and broadly affect U.S. strategic interests (*Id.* at 892). Ultimately, when we evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence illustrating the "potential prospective impact" of his actual proposed work. *Id.* at 889.

The portion of USCIS policy the Petitioner references provides the following as it relates to the public at large concept:

> Benefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a person's endeavor has national importance. At issue is whether the petitioner can demonstrate that the person's own individual endeavor stands to have broader implications, such as for a field, a region, or the public at large.

See generally 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual. The Policy Manual provides multiple examples, one of which reflects a person developing a particular technology for use or sale by a given company may not be able to demonstrate national importance if they are not able to establish broader public or commercial implications at a level consistent with national importance for their field or industry. In that scenario, they would need to provide evidence of, for example, widespread interest in adoption or licensing of the technology, a novel and important manufacturing or operational process, or how the technology stands to impact the development of similar technology by other companies.

In *Dhanasar*, the alien proposed to engage in research and development relating to air and space propulsion systems focused on computational fluid dynamics. He had already developed a validated computational model of a high-speed air-breathing propulsion engine, as well as a novel numerical method for accurately calculating hypersonic air flow and he intended to continue his research at the university where he was a postdoctoral research associate. That continued research held potential use in military and civilian technologies such as nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles to enhance our national security and defense by allowing the United States to maintain its advantage over other nations in the field of hypersonic flight.

The scenario in *Dhanasar* clearly outlined the national importance aspect through U.S. strategic interests. While that clear set of circumstances is not required in every case, the Petitioner has not provided adequate evidence relating to public safety showing broader applications in the field. Within the appeal, the Petitioner draws attention to the letters from his employer. He notes the correspondence provides details relating to his contributions to the company's safety technologies and that his unit relies on him in the continued development and implementation of the technology solutions. We don't dispute that the letters provide insight into the Petitioner's involvement in the proposed endeavor. The Petitioner's managers listed the vehicles in which they plan to install the second-generation braking system. But the Petitioner's appeal does not explain how that same correspondence conveys how his involvement would affect the broader field as it relates to public safety. And it is not apparent after we reviewed the letters.

There is no evidence that every [redacted] and [redacted] vehicle will adopt this system, nor that any other automotive manufacturers have committed to using the braking system in any vehicle. This results in a shortcoming: the Petitioner did not substantiate widespread interest in adoption or licensing of the technology, or how the technology stands to impact the development of similar innovations by other companies. *See generally* 6 *USCIS Policy Manual*, *supra*, F.5(D)(3). For example, the Petitioner did not document what percentage the vehicles with the second-generation braking system would comprise of the automobiles that would be on the road.

The letter from his employer's senior supervisor of systems engineering in North America indicated "[h]e is developing and implementing novel advanced automated braking systems . . . . These systems will be deployed in thousands of widely used vehicles manufactured in the United States." As there were recently nearly 279 million registered vehicles in the United States, the Petitioner has not explained how simply adding thousands of automobiles to that number constitutes broad implications.[3] It is therefore impossible to discern what the impact would be. These shortcomings degrade the Petitioner's claims on how impactful his work would be in the broader field as it relates to public safety and is but one element illustrating that he did not meet his burden of proof under *Dhanasar's* first prong.

We are also not persuaded by the Petitioner's expansive argument that because every vehicle in the United States shares the road with a limited number of vehicle models from two automobile manufacturers that will deploy improved braking systems, that this incremental improvement to public safety shows an impact on the public at large. It is insufficient to allege eligibility through conclusory

[3] *Car Ownership Statistics 2025*, Forbes (Jan. 3, 2025), https://www.forbes.com/advisor/car-insurance/car-ownership-statistics/.

assertions that are not supported by sufficient evidence, which proves the allegation. *Matter of Ho,* 22 I&N Dec. 206, 213 (Assoc. Comm'r 1998); *Fogo De Chao (Holdings) Inc. v. U.S. Dep't of Homeland Sec.*, 769 F.3d 1127, 1143–44 (D.C. Cir. 2014) (finding a petitioner's assertions in the appeal carried no merit because they did not offer evidence to corroborate the claim); *Fano v. O'Neill*, 806 F.2d 1262, 1266 (5th Cir. 1987); *Coliseum Square Ass'n, Inc. v. Jackson*, 465 F.3d 215, 238 (5th Cir. 2006).

While advanced braking systems may enhance safety in a limited number of vehicles, it is speculative and premature to treat their presence as a matter of national public safety concern. The fact that a small subset of vehicles performs better does not meaningfully reduce the overall risk for the public at large, particularly when most of the vehicles on the road do not share those capabilities. Elevating such limited improvements to the level of national importance risks stretching *Dhanasar's* standards beyond reasonable bounds. The Petitioner's public safety arguments do not aid him in satisfying prong one's requirements.

Technological innovations and economic impact. Within the brief, the Petitioner argues he is impacting his field more broadly because he is developing technologies to be implemented by [redacted] and [redacted] The Petitioner alleges SCOPS failed to engage with this argument. He advances the position that developing technologies for two manufacturers is a de facto impact on the broader field of automotive engineering.

Before SCOPS, the Petitioner claimed the advancements resulting from his proposed endeavor go beyond improving individual vehicle performance as they set new industry benchmarks for safety, reliability, and efficiency in modern braking systems. The Petitioner asserted his work has an impact that extends well beyond the company he works for and its customers, and his contributions play a vital role in strengthening U.S. leadership in automative innovation. He also made other assertions attempting to tie his efforts into USCIS NIW policy.

The Petitioner characterized two manufacturers intending to include the technology he is working on as garnering "widespread interest," but did not offer any additional discussion on this issue, nor did he provide evidence relating to his description that the technology has enjoyed "widespread adoption because [his employer] has secured major contracts with [redacted] and [redacted], thus ensuring the deployment of my technologies in hundreds of thousands of vehicles." He also claimed his endeavor involves a novel and important manufacturing process, and it impacts the development of similar technologies by other companies.

First, it is unclear why the Petitioner refers to the project he is managing as "my technologies" as the record does not demonstrate he created any proprietary product that his employer is now distributing. Additionally, we do not adhere to the Petitioner's reasoning here for the same reasons we disposed of his expansive arguments under the public safety section above. Again, the record is deficient of probative material demonstrating the proportion of vehicles that will be on America's roads and equipped with the second-generation braking system. We will not accept assertions that his endeavor's safety improvements are a de facto impact on the broader field. The Petitioner's unsupported statements have little evidentiary value and will not satisfy his burden of proof. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998).

While we acknowledge the technology he is helping create possibly involves a novel or new manufacturing process, the record lacks supporting evidence to illustrate it will have national or broader implications in the field. Further, his claim is speculative that other car manufacturers will be pressured to adopt similar innovations to remain competitive. Again, the Petitioner's assertions here fall short of meeting his burden of proof and he has not identified the evidence to support his claims. *Id.*

And relating to an economic impact, he claims the improved braking systems helps [redacted] and [redacted] compete in the global automotive market. While this commentary is ostensibly feasible, the Petitioner did not demonstrate the level at which an improved braking system might impact these two manufacturers who are competing on a global scale, especially when the system is deployed in a limited number of each company's vehicles. The record is bereft of evidence to prove the impact of such a braking system improvement on the two companies' competitive advantage. Again, the Petitioner's inadequately supported assertions do not satisfy his burden of proof. *Id.* In summary, the Petitioner's economic impact claims are also not supported with probative evidence.

c. Other Irregularities

Within the appeal, the Petitioner highlights what he believes are three mistakes in SCOPS' decision. But he only indicates they show greater attention to detail should be adhered to in the adjudication and he does not allege that those claimed mistakes prejudiced him. These mistakes also amount to a harmless or a scrivener's error. *Matter of O-R-E-*, 28 I&N Dec. at 350 n.5.

B. We Reserve *Dhanasar's* Remaining Second and Third Prongs

As we explain above, *Dhanasar's* second and third prongs require the Petitioner to demonstrate he is eligible for an NIW meeting additional requirements. But because the Petitioner has not established that his proposed endeavor satisfies the *Dhanasar* framework's first prong, he is not eligible for an NIW and further discussion of the second and third prongs would serve no meaningful purpose. Consequently, we reserve the Petitioner's remaining appellate arguments. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also Matter of M-S-I-*, 29 I&N Dec. 61, 65 (BIA 2025) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden.

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.