U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40553048

Date: DEC. 17, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a research associate, 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 job offer 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
- On balance, waiving the job offer requirement would benefit the United States.

[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).

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

SCOPS found that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. Based on the evidence in the record that the Petitioner obtained a master of science degree in mechanical engineering, we agree. SCOPS also found that the proposed endeavor has both substantial merit and national importance. SCOPS denied the petition, however, finding that the Petitioner did not establish that he is well-positioned to advance the proposed endeavor or that, on balance, waiving the job offer requirement would benefit the United States. On appeal, the Petitioner claims that SCOPS applied a heightened standard of review that is not warranted by the analytical framework provided in *Matter of Dhanasar* and not in line with the preponderance of the evidence standard.

The Petitioner's proposed endeavor is to continue his research on developing and deploying carbon capture and storage technologies and sustainable aviation fuels in order to promote environmental sustainability. To pursue the endeavor, the Petitioner initially stated that he intends to continue working as a research associate at the [redacted] In response to SCOPS' request for evidence (RFE), the Petitioner stated that he intends to pursue this endeavor as a graduate student researcher while earning his Ph.D. at the [redacted]

While the first prong of the *Dhanasar* framework focuses on the proposed endeavor and whether it has substantial merit and national importance, the second prong shifts the focus from the proposed endeavor to the individual and whether they are well-positioned to advance it. *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.*

First, we conclude that the Petitioner's education, skills, and knowledge are positive factors in whether he is well-positioned to advance the proposed endeavor. Specifically, the Petitioner obtained a master of science degree in mechanical engineering from the [redacted] in 2023 and a foreign bachelor of science degree in mechanical engineering from [redacted] in 2021, fields that are related to his proposed endeavor. Additionally, his published research shows that he has developed skills and knowledge that would be useful in continuing to research sustainable aviation fuels and carbon capture technologies. However, we do note that the Petitioner does not possess a Ph.D. or terminal degree in his field.[2] Regarding the Petitioner's record of success in related or similar efforts, we conclude that the evidence appears to demonstrate that the published work that the Petitioner has co-authored has been cited frequently by researchers at a rate that is high relative to others in the field.

[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 evidence in assessing the second prong. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual.

The next factors applicable to the second prong of the *Dhanasar* framework are the petitioner's model or plan for future activities and any progress toward achieving the proposed endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 890. The Petitioner contends on appeal that the record demonstrates his progress and his plans based upon his personal statement, in which he states that he intends to be employed as a graduate student researcher while earning his Ph.D. at the [redacted] The Petitioner also describes three specific research projects which he is interested in pursuing.

While the Petitioner claims that he will pursue his endeavor, and these specific research projects, while working as a student researcher, we conclude that the record does not sufficiently demonstrate these claims. The Petitioner did not provide evidence, other than his own statement, related to this graduate student research position specifically, or to his Ph.D. program in general. Additionally, the Petitioner stated in the initial filing that he was pursuing his proposed endeavor as a research associate at the [redacted] A petitioner must also support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. We conclude that the record does not provide sufficient details regarding the Petitioner's Ph.D. program, his claimed research position, or any progress towards achieving the endeavor, based on the Petitioner's statements alone.

The final factor enumerated in *Matter of Dhanasar* relates to evidence of interest from potential customers, users, investors, or other relevant entities or individuals. *Matter of Dhanasar*, 26 I&N Dec. at 890. 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. In support of this factor, the Petitioner asserts that he has been the recipient of prestigious funding from the U.S. Department of Energy, the National Science Foundation, and the American Chemical Society. Although the Petitioner submitted evidence that he has participated in research that received funding from these entities, we agree with SCOPS that the record does not establish that the Petitioner had any role in applying for and receiving this funding. By contrast, in *Matter of 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, we are unable to tell the Petitioner's role, if any, in obtaining this funding, and therefore whether this funding indicates any interest from relevant agencies in the Petitioner pursuing the proposed endeavor. Upon de novo review, we agree with SCOPS that the evidence in the record regarding the Petitioner's funding from U.S. government agencies does not appear to be similar in kind to the funding received by the petitioner in *Matter of Dhanasar*, and it does not support a finding that the Petitioner is well-positioned to advance the proposed endeavor based upon interest from relevant entities.

On appeal, the Petitioner objects to SCOPS' analysis of the evidence of funding, claiming the analysis was arbitrary because it was "inconsistent" with the RFE, in which SCOPS found the evidence insufficient based upon different reasoning. However, we note that even if SCOPS' analysis of this evidence in the decision was different from the analysis in the RFE, the Petitioner does not, on appeal, provide any arguments to address or overcome SCOPS' findings regarding these deficiencies in the evidence of the Petitioner's funding.

Not every individual who has conducted original research, published findings, and who intends to continue their research during their Ph.D. program 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. *Matter of Dhanasar*, 26 I&N Dec. at 890. The Petitioner's knowledge, skills, and record of success in related efforts, as demonstrated by his education, publication history, and citation record are positive factors. However, they are not sufficient to overcome the lack of evidence demonstrating the Petitioner's model or plan for future activities, his progress toward achieving the endeavor, or interest from potential investors or other relevant entities. In considering the record in totality, we conclude that the Petitioner has not established that he is well-positioned to advance the proposed endeavor.

Because the documentation in the record does not establish that the Petitioner is well-positioned to advance the proposed endeavor as required by the second prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion regarding his eligibility under the first and third *Dhanasar* prongs. *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).

III. CONCLUSION

The Petitioner has not met the requisite second 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.