U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41000866

Date: FEB. 2, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an optical imaging engineer, 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 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. *Matter of 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 on the evidence in the record that the Petitioner has obtained a master of science degree in electrical engineering (photonics), we agree. The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest under the analytical framework set forth in *Matter of Dhanasar*.

Regarding the Petitioner's eligibility for a national interest waiver, SCOPS determined that the Petitioner demonstrated both the substantial merit and the national importance of his proposed endeavor, and therefore that he met the first *Dhanasar* prong. However, SCOPS found that the Petitioner did not establish that he is well-positioned to advance the proposed endeavor, or that, on balance, a waiver of the job offer requirement would benefit the United States. On appeal, the Petitioner contends that SCOPS improperly dismissed or ignored the evidence in the record and that the Petitioner has established eligibility for a national interest waiver. Upon de novo review and for the reasons discussed below, we conclude that the record does not establish that the Petitioner is well-positioned to advance the proposed endeavor, and we will dismiss the appeal on that basis.

The Petitioner's proposed endeavor is to use physics-based imaging models and deep learning algorithms to develop cutting-edge imaging technologies that enable super-resolution and contrast-enhanced imaging, in order to improve optical imaging systems. The record shows that at the time of filing, the Petitioner was working toward his Ph.D. in electrical engineering from the [redacted]. The Petitioner stated that upon completion of his Ph.D., he would pursue a position at [redacted] as an imaging engineer, where he would design and implement optical imagining hardware and software systems for [redacted] products. The Petitioner submitted evidence that improving optical imaging systems has implications for improved biomedical imaging and therefore improved healthcare outcomes.

In response to SCOPS' request for evidence (RFE), the Petitioner provided an updated personal statement in which he claimed that he had started a position at [redacted] as a camera algorithm engineer. The Petitioner described two research projects related to improving imaging sensors in consumer and wearable devices that he states he is pursuing with this employment. The Petitioner claims that his research will continue to be disseminated through peer-reviewed publications, technical conferences, and new products.

In the second prong, we consider whether the individual is well-positioned to advance the proposed endeavor. *Id.* at 890. In this determination, 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.*

First, we conclude that the Petitioner's education, skills, and knowledge are positive factors in supporting his positioning to advance the proposed endeavor. *See Matter of Dhanasar*, 26 I&N Dec. at 890. Specifically, the Petitioner has obtained a master's degree in a field related to his proposed endeavor and his published research shows that he has developed skills and knowledge that would be useful in continuing to research physics-based imaging models and deep learning algorithms to improve optical imaging systems. Additionally, we conclude that the evidence, including the letters of recommendation, credibly demonstrates the Petitioner's prior research contributions.

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. *Id.* Here, we conclude that the record does not support a finding that the Petitioner is well-positioned to advance the proposed endeavor. Although the Petitioner asserts that he will advance his endeavor through his employment with [redacted] the record does not contain sufficient documentation in support of this claim.

In response to SCOPS' RFE, the Petitioner submitted a letter from Dr. H.D.[2] who claims to be the "camera algorithm manager" for [redacted]. However, the letter is not on [redacted] letterhead and contains no contact information such as telephone number or email address; we therefore consider the probative value of the letter to be significantly reduced. Even accepting the letter from Dr. H.D., while it describes some of the Petitioner's job duties and characterizes the position as "research-focused," it does not specifically discuss the Petitioner's proposed endeavor, nor does it support the Petitioner's claim that his research position involves publishing and presenting research to be disseminated in the field. Moreover, the Petitioner did not provide any other documentary evidence regarding his employment at [redacted] such as pay records, an employment confirmation letter, a formal job description to establish the position responsibilities, or other documentary evidence from [redacted] establishing the Petitioner's employment with the company and its support for the Petitioner advancing the proposed endeavor through this employment. While the letter writer claims that the Petitioner's work is "immensely valuable to [redacted]," that it is "advancing U.S. interests" and "impacting millions of users around the world," these claims are not sufficiently supported by other evidence in the record. Accordingly, the record does not reflect [redacted] support for the Petitioner's specific, proposed endeavor. Thus, the Petitioner has not established his ability to pursue his proposed endeavor at [redacted] and therefore has not established a credible plan for his future activities.

The final factor enumerated in *Matter of Dhanasar* relates to evidence of interest from potential customers, users, investors, or other relevant entities or individuals. *Id.* 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 contends that the citations to his published articles and his recommendation letters demonstrate interest in his work. However, beyond having been cited in published works, the articles do not describe how his future research endeavor has interest or support from others in his field. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual (providing examples of evidence to establish a petitioner is well-positioned, such as excerpts of published articles showing positive discourse around, or adoption of, the person's work).

[2] We use initials to protect individual's privacy.

We acknowledge that the Petitioner has provided recommendation letters. However, these letters are primarily from the Petitioner's collaborators and discuss the Petitioner's contributions to their shared research projects. For example, the Petitioner submitted a letter from Dr. J.Z. at the [redacted] in China, who describes the Petitioner's contributions to research in which they collaborated and states that the Petitioner made "substantive intellectual and technical contributions" to their work. The letters do not describe the Petitioner's proposed endeavor, nor do they provide support for or discuss interest in the Petitioner's claimed research work with [redacted]

The Petitioner also claims that interest in his work is demonstrated by investments from entities such as the National Science Foundation and the [redacted] Foundation. However, we agree with SCOPS that the record does not show that the Petitioner has led any research projects funded by government grants or private investments or that he was a principal investigator on any research. 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. *Matter of Dhanasar*, 26 I&N Dec. at 893, Fn. 11. We acknowledge that the record contains a recommendation letter from Dr. Z.L., Professor at [redacted], who states that he is the principal investigator for his research group at the [redacted] and that "[a]lthough [the Petitioner] was not named in the funding documentation for these grants, his work was essential to the success of our work and our receipt of this prominent funding." Nevertheless, we conclude that while the Petitioner's involvement in this funded research is favorable, the evidence submitted does not sufficiently demonstrate interest from relevant entities such that we could consider the Petitioner to be well-positioned to advance the proposed endeavor. For these reasons, we conclude that the record does not sufficiently establish interest from relevant entities or individuals.

Not every individual who has conducted original research and published findings, even findings important to their field, 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 education, publication history, and recommendation letters are positive factors. However, they are not sufficient to overcome the lack of evidence establishing the Petitioner's ability to advance his proposed endeavor through his employment at [redacted] 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 either the first or the 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.