U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40795704

Date: FEB. 3, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an electrical engineer, seeks classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

SCOPS denied the petition, concluding that the record did not establish that the Petitioner qualifies for the national interest waiver. 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 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

To qualify for a national interest waiver, a petitioner must first show eligibility for the underlying EB-2 visa classification, as either an advanced degree professional or an alien of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, he or she must then establish that he or she merits 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:

[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).

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- The proposed endeavor has both substantial merit and national importance;
- The alien is well positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

II. ANALYSIS

The record demonstrates that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining 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. SCOPS determined that the Petitioner had established the substantial merit of the proposed endeavor, but otherwise had not satisfied the requirements of the *Dhanasar* national interest test.

The Petitioner earned a bachelor's degree in physics at [redacted] and then briefly conducted research at the [redacted] Since that time, the Petitioner has been a graduate student studying electrical engineering at the [redacted] and earned a master's degree. He was a doctoral student when he filed the petition in 2025. After the petition's filing date, the Petitioner entered what he described as "a short-term, summer research internship at [redacted] a U.S.-based startup founded by [his] academic advisor," while his doctoral studies continued.

The Petitioner described his proposed endeavor:

> My proposed endeavor is to develop advanced memory technologies and applications that operate reliably in high-temperature environments and deliver fast write and read times in order to meet the critical demands of aerospace, defense, and high-energy industries, as well as emerging applications in artificial intelligence (AI), Internet of Things (IoT), and edge computing. . . .
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> . . . At the [redacted] my work includes designing and fabricating advanced memory devices, optimizing chip architectures for high-performance applications, and conducting detailed electrical measurements to evaluate device reliability and efficiency. I am currently working on developing memory technologies capable of operating in high-temperature environments with fast response times for applications in aerospace, defense, and edge computing. My research involves integrating novel materials into memory systems to enhance their durability and energy efficiency under extreme conditions. In the future, I will expand these technologies to compute-in-memory technology, which would support AI and IoT applications, enabling scalable and reliable data storage and computing solutions. . . .
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> . . . My planned research topics include developing scalable, high-temperature memory solutions with ultra-fast response times, and enabling advanced computing architectures for AI, IoT, and edge applications. These projects will involve integrating innovative materials and designs to address challenges in energy efficiency, reliability, and performance for next-generation technologies.

The Petitioner provided additional details in response to a request for evidence (RFE). The Petitioner stated that "NASA has developed silicon carbide (SiC)-based logic circuits capable of continuous operation at temperatures exceeding 500° C," but those "systems must still rely on memory subsystems positioned in cooler areas of the vehicle, introducing latency and reliability challenges." The Petitioner's endeavor focuses on "developing ferroelectric memory devices capable of operating at the same extreme temperatures as existing SiC logic," which would overcome some of the limitations of existing systems.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the alien proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. We look for broader implications. An endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance. *Id.* at 889-890.

In determining national importance, the relevant question is not the importance of the industry or profession in which the alien will work; instead we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.*

We agree with SCOPS that the Petitioner has established the substantial merit of his proposed endeavor. SCOPS concluded, however, that the Petitioner had not established that the proposed endeavor has the broader implications necessary to show national importance. We disagree.

SCOPS stated that the "performance of [other] duties . . . could detract from the time devoted to research." SCOPS did not elaborate on this point, and did not explain how ancillary duties would diminish the national importance of the Petitioner's future research work.

SCOPS added that the Petitioner had not shown that his future "research discoveries . . . would be made publicly available rather than maintained as proprietary information." But the Petitioner had stated that his "research . . . will continue to be circulated in the field through [his] peer-reviewed publications in journals and conference proceedings."

The Petitioner submitted a partial copy of a *Forbes* article by the then-president of the Institute of Electrical and Electronics Engineers, indicating that "logic and computing devices for automotive, oil exploration and geothermal applications, interplanetary exploration, nuclear reactors and aerospace applications" require computer memory technology that can withstand "extreme environments." The Petitioner's proposed endeavor addresses this need. Researchers at other institutions have cited the Petitioner's published work on the subject and explained in letters how the Petitioner's work has

supported their own research. Therefore, the record does not indicate that the benefit arising from the proposed endeavor would be limited to a particular employer.

For the above reasons, we conclude that the Petitioner has established the national importance of his proposed endeavor.

B. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the alien. To determine whether an alien is 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. *Matter of Dhanasar*, 26 I&N Dec. at 890.

In denying the petition, SCOPS acknowledged the Petitioner's evidence, but concluded that each category of evidence was insufficient, by itself, to satisfy the second *Dhanasar* prong. For example, SCOPS described the Petitioner's academic degrees and then stated that "education is merely one factor among many that may contribute to" eligibility. SCOPS relied on nearly identical language in discussing the citation of the Petitioner's published work, stating: "Citations are merely one factor among many. . . ." Likewise, SCOPS concluded that "being published . . . is not sufficient" to establish impact on the field. SCOPS described the Petitioner's employment experience and then stated: "Competent execution of past job duties, even successfully, does not automatically render a person well positioned. . . . Merely working in an important field is insufficient to establish that the beneficiary is well positioned to advance the proposed endeavor."

We agree with the Petitioner's assertion on appeal that SCOPS appeared to have considered the Petitioner's "documents in isolation [from] each other and not in their totality." While it is true that, for example, the Petitioner's educational background *by itself* is insufficient to satisfy the second *Dhanasar* prong, the Petitioner did not rely solely on his education. In stating that each individual element is "one factor among many," SCOPS does not appear to have given sufficient consideration to the factors taken together, rather than separately.

[redacted] faculty members who have collaborated with the Petitioner and overseen his research attest to his capabilities. Letters may be persuasive when they are from experts in the person's field who have first-hand knowledge of the person's achievements, describe those achievements, provide specific examples of how the person is well positioned to advance the person's endeavor, and are supported by other independent evidence. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual.

A [redacted] professor described some of these collaborations, and stated:

> [The Petitioner has] clearly demonstrated his ability to develop these devices . . . and in our second project, he also provided the compact model for a single ferroelectric diode design. These outcomes confirm his distinctive expertise with these methodologies, as well as his track record of successful development with these

devices. For these reasons, [the Petitioner] is evidently well qualified to advance his research goals.

The record indicates that the Petitioner is named on at least one patent application for the technology in question, pointing to the Petitioner's role in conceiving and creating that technology rather than merely participating in more ancillary roles such as constructing devices based on other researchers' schematics and instructions.

The preponderance of the evidence here shows that the Petitioner is already playing a significant role in the same type of research described in his proposed endeavor. This work appears to relate to furthering a critical and emerging technology, which the *USCIS Policy Manual* identifies as a strong positive factor. *See id.* at F.5(D)(4).

For the above reasons, we conclude that the Petitioner has established that he is well positioned to advance the proposed endeavor.

C. Whether on Balance a Waiver is Beneficial

The third *Dhanasar* 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. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the alien's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) considered must, taken together, establish 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. at 890-91.

SCOPS offered only limited discussion of the third *Dhanasar* prong, stating several conclusions without adequately explaining how the record supports those conclusions. The erroneous determination that the Petitioner had not met the first two *Dhanasar* prongs appears to have influenced SCOPS' briefly stated conclusions regarding the third prong.

Therefore, SCOPS must again review the Petitioner's proposed endeavor in the context of the third *Dhanasar* prong, taking the above conclusions under consideration.

III. CONCLUSION

The record does not support SCOPS' conclusions regarding the first and second *Dhanasar* prongs. Because the Petitioner has satisfied those two prongs, SCOPS must render a new decision, focusing on the remaining question of whether the Petitioner has established that, on balance, the United States would benefit from waiving the job offer requirement.

ORDER: SCOPS' decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.