U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41160903

Date: FEB. 13, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a chemical 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 dismiss the appeal.

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.

A petitioner who establishes eligibility for the underlying EB-2 classification 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:

- The proposed endeavor has both substantial merit and national importance;
- The alien 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.

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 had not otherwise satisfied the three prongs of the *Dhanasar* national interest test.

After earning a bachelor's degree in chemical engineering in the Philippines in 2001, the Petitioner earned two master's degrees at [redacted] in chemical engineering in 2007 and in forest biomaterials in 2017. The Petitioner has been in the United States since August 2014, when he entered as an F-1 nonimmigrant student. In 2023, the Petitioner earned a doctorate in systems engineering, concentrating in chemical engineering, from the [redacted] He filed the Form I-140 petition in December 2023.

A. Proposed Endeavor

In the denial notice, SCOPS noted the vague and changing descriptions of the Petitioner's proposed endeavor. The Petitioner disputes this characterization on appeal, but the record supports SCOPS' conclusion.

At the time of filing in December 2023, the Petitioner provided this description of his proposed endeavor:

> I am applying for permanent resident status in the United States to further serve as a researcher in environmental clean-up and public health. With permanent resident status I will continue to advance research in my field and I will apply for research fellowships with leading U.S. institutions such as the National Aerospace and Space Administration (NASA) or the National Science Foundation (NSF). Specifically, I want to continue my work on biochemical systems that can clean the environment by removing contaminants in municipal and industrial wastewater. This research is applied to sustaining life on Earth, which is being utilized or relied upon by others to establish bio-regenerative life support systems on the moon or Mars. For instance, I developed a process for removing contaminants in human-derived wastewater and the removal of carbon dioxide in the air using microalgae cultivation systems that are effective in providing clean water and reducing carbon dioxide in the air.

Apart from the water purification research described above, the Petitioner also stated: "my skills in the development of production processes of protein therapeutics and nutraceuticals make me capable of developing new processes for new vaccines and novel nutritionals for public health."

Describing his employment at the time of filing, the Petitioner stated:

> I am an affiliate non-faculty researcher at the [redacted] after my appointment as a Postdoctoral Researcher at the [redacted] . . . I am also a Temporary Part Time Worker at the [redacted], where my role focuses on publishing data sets for peer-reviewed papers in archival journals. I am also a grant proposal specialist and customer discovery specialist for two engineering start-ups, where I write innovation grant proposals for federal funding as well as assist in increasing their number of customers or business partners. One start-up is in nutraceuticals and nutritious food manufacturing and another one is in aerospace engineering.

On a separate accounting of his employment history, the Petitioner indicated that he worked 20 hours per week at [redacted] as a "Graduate Assistant/Researcher"; 5 hours per week for food manufacturer [redacted] as an "Account Manager"; and 5 hours per week for [redacted] as a "Grant Proposal Specialist."

The Petitioner submitted letters from two of those employers. A representative of [redacted] stated that it had employed the Beneficiary "as a Temporary Part Time worker since" June 2023, and that his "main professional duties included publishing data sets for peer-reviewed papers in archival journals, travel to conferences to present and learn about developing processes, and present and summarize technical information into summary reports."

The owner of [redacted] stated that the Petitioner "has been continuously employed as a technical writing and grant proposal specialist" since June 2023, at "an annual salary of $500."

On Form I-140, asked to provide the address where he intended to work, the Petitioner listed the address of [redacted], although his accompanying statement did not mention [redacted] or explain what sort of work he intended to perform there. The Petitioner's initial submission did not include any information from [redacted] to discuss the nature of his potential employment there, or to indicate that the company engages, or intends to engage, in the type of wastewater treatment research that the Petitioner emphasized in his own statement.

In a request for evidence (RFE), SCOPS stated that the Petitioner had not provided enough information about the proposed endeavor.

In response, the Petitioner submitted a new statement, on [redacted] letterhead. The Petitioner stated that his "proposed endeavor [is] focused on research and development as it relates to biochemical materials to benefit public health and the environment." But the lengthy description that followed did not identify a single, coherent endeavor. Rather, the Petitioner described several different pursuits, some of which involved different facets of chemistry or chemical engineering. He stated:

> Currently, I am a Design to Cost Chemist with [redacted] a contract-to-hire staffing agency of [redacted]. . . In this position, I am contributing to the global procurement of medical product ingredients.

More specifically, I act at the corporate level as the biological and/or chemical manufacturing subject matter expert on chemical process engineering technology research-to-commercialization. . . .

. . . .

Moreover, I am sought after as a consultant, manager, or founder by start-up companies [redacted]. My role would include assessing new technologies and facilitating academia-industry collaboration, leading to the commercialization of new inventions, partnerships with beneficiaries, stakeholders and investors, and identifying which have the greatest potential for commercial success for economic development.

To continue advancing my research in the national interest of the United States, my future research will include the following:

- Membrane systems for environmental cleanup. . . .
- Developing new soybean-based protein supplements. . . .
- Development of dental hygiene products for children with special needs. . . .
- With [redacted] submitting a patent based on our combined research data from our thesis, dissertations and existing publications and will be building engineering prototypes. . . .

Ultimately, after my contract industry experience at [redacted] research fellowship at NASA or NSF, and experience in building STEM start-ups, I want to continue solid partnerships with industry and academia to contribute to the national efforts in production of healthcare products for public health, environmental clean-up systems and increasing funding of the academe-industry partnerships for the STEM start-ups to employ U.S. workers to sustain profit.

In denying the petition, SCOPS observed that the Petitioner claimed "a new set of facts" "for the first time in response to the RFE." SCOPS cited 8 C.F.R. § 103.2(b)(1), which requires a petitioner to meet all eligibility requirements at the time of filing. As a result, SCOPS declined to consider the new elements that the Petitioner introduced in response to the RFE. SCOPS also concluded that the Petitioner's original description of the proposed endeavor was too vague to establish eligibility.

On appeal, the Petitioner contends that he has not made any material change to his proposed endeavor, and that the activities described in the RFE response "are all related to his proposed endeavor of biochemical research and process engineering."

But "biochemical research and process engineering" is a broad category rather than a specific proposed endeavor. When he filed the petition, the Petitioner described at least two different pursuits, one involving "removing contaminants in municipal and industrial wastewater" and another involving "development of production processes of protein therapeutics and nutraceuticals . . . for new vaccines and novel nutritionals for public health."

The Petitioner's response to the RFE added further elements, including "procurement of medical product ingredients," "assessing new technologies and facilitating academia-industry collaboration," and "[d]evelopment of dental hygiene products for children with special needs." He had mentioned [redacted] in his initial submission, but he has not explained how writing grant proposals and "building . . . prototypes" for an aerospace startup relate to a proposed endeavor in chemical engineering.

The Petitioner has not described a single coherent endeavor that would encompass all these disparate activities.

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

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." *Id.* 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 also stated that "[a]n 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 890.

In the denial notice, SCOPS concluded that the Petitioner had provided enough information to show substantial merit. But SCOPS also concluded that, due to "the vagueness and lack of evidence submitted in support of the original endeavor," the Petitioner had not established the endeavor's "potential prospective impact."

Ultimately, the substantial merit and national importance of the proposed endeavor depend on a sufficiently specific, detailed, and *consistent* description of that endeavor. Here, the Petitioner has described his work with several disparate employers, performing duties ranging from publishing academic data to sales and marketing of food products. Using an umbrella term such as "chemical engineering" does not unify these diverse activities into a coherent proposed endeavor.

The Petitioner has identified several scientific and medical benefits that could result from various activities that he has described. The difficulty lies in the changing and incompatible descriptions of the specific work that the Petitioner would undertake. The Petitioner listed several different jobs, each offering *different* impacts and benefits, and did not show that, or explain how, he would be able to pursue each of these undertakings going forward. The Petitioner cannot establish eligibility based on the principle that, having described numerous possible benefits, his ultimate endeavor will likely result in at least *some* of those benefits.

Therefore, we conclude that the Petitioner has not established the national importance of his proposed endeavor. Not because he has failed to identify potential benefits from work that he may undertake,

but because he has not identified a specific proposed endeavor. An array of disparate possibilities does not collectively constitute a proposed endeavor.

C. 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.

As noted above, the Petitioner has described multiple potential endeavors. Because the Petitioner has not put forth a coherent endeavor, we agree with SCOPS that he has not met his burden to establish that he is well positioned to advance the proposed endeavor.

On appeal, the Petitioner emphasizes guidance in the *USCIS Policy Manual* regarding "specific evidentiary considerations for persons with advanced degrees in science, technology, engineering, or mathematics (STEM) fields." That guidance indicates:

> USCIS considers an advanced degree, particularly a Doctor of Philosophy (Ph.D.), 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 U.S. 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* F.5(D)(4), https://www.uscis.gov/policy-manual.

But the *USCIS Policy Manual* also specifies: "A degree in and of itself, however, is not a sufficient basis to determine that a person is well positioned to advance the proposed endeavor." *Id.* We must also "consider whether the specific STEM area relates to the proposed endeavor." *Id.* In this respect, the Petitioner's inconsistent descriptions of his proposed endeavor prevent such a determination.

Sustained interest and funding from government agencies can serve as evidence that a petitioner is well positioned to advance a proposed endeavor. *See Matter of Dhanasar*, 26 I&N at 893. Here, the Petitioner has not shown such interest and funding. As noted above, the Petitioner initially stated that he "will apply for research fellowships" at NASA or NSF. In response to the RFE, the Petitioner discussed his goals "after [his] . . . research fellowship at NASA or NSF." The record does not show that NASA, NSF, or any other government entity had offered him a research fellowship. Without such evidence, the Petitioner has not established that he is well positioned to advance a proposed endeavor that entails such a fellowship.

The record does show that NASA funded the Petitioner's earlier research at [redacted], involving the use of microalgae in water purification. But unlike the petitioner in *Dhanasar*, the Petitioner has not shown that he played a significant role in securing that funding. *See id.* at 892-93. Also, the NASA-funded project was in conjunction with the Petitioner's now-completed doctoral studies. The

Petitioner has not shown that he continued to perform NASA-funded research after he received his Ph.D. in May 2023. The July 2023 employment letter from [redacted] does not indicate that the Petitioner continues to perform research for the university.

When the Petitioner filed the petition, he indicated that he worked five hours per week as an "Account Manager" for [redacted] He stated: "I develop and grow the commercial relationships of existing accounts while prospecting for new accounts to increase market penetration and increase potential earnings from licensing intellectual property in applications of systems engineering and chemical engineering."

In response to the RFE, he stated that his "future research will include . . . [d]eveloping new soybean-based protein supplements." He added: "I intend to leverage my customized product development experience as a process development engineer at [redacted] with [redacted] [see contract with [redacted]]." The Petitioner did not submit documentation from [redacted] to attest to the nature of his employment there.

The only documentation directly from [redacted] is a July 2023 contract. This document does not indicate that the Petitioner has, or will have, any role in product development or any duties involving chemical engineering. Rather, the contract requires the Petitioner to "work as a contractor for an account manager position." His stated duties are to "[m]arket and sell [redacted]" "[m]onitor competition," and "[d]evelop and grow the commercial relationships of existing customers (accounts) while prospecting for new accounts," in exchange for "7% commission of gross sale(s) that he has generated." The contract does not establish that the Petitioner is well positioned to work in "customized product development" for [redacted]

The Petitioner's response to the RFE included several letters of interest from individuals at various companies and institutions, describing a broad range of potential projects including sugar cane purification, development of toothpaste from coconut oil, and "seeking [the Petitioner's] expertise as a grant proposal consultant." Some of these projects have little or no apparent relation to chemical engineering.

Also, these newly obtained letters do not establish that the Petitioner was well positioned to advance his proposed endeavor when he filed the petition in December 2023, as 8 C.F.R. § 103.2(b)(1) requires. One of the companies seeking collaboration with the Petitioner did not exist until early 2025.

Also, the letters do not consistently establish the source of support for the Petitioner's future work. The writer of one letter stated that she and the Petitioner would "[d]raft proposals to philanthropic foundations" to support the research; she did not indicate that any such support had already been obtained. Another writer stated that the Petitioner's "work . . . can continue through a fellowship with the National Science Foundation or post doctoral fellowship [with] NASA." But that writer claimed no affiliation with NSF or NASA; he owns a company in the Philippines that repurposes agricultural waste from coconut farming. An intention to seek grant funding in the future, from third parties that have not attested to their intention to provide that funding, is not persuasive evidence that the Petitioner was well positioned to advance his proposed endeavor at the time of filing.

SCOPS concluded that the Petitioner had not met the second *Dhanasar* prong. SCOPS observed that the Petitioner had not provided evidence of financial support, and had not documented the success or influence of his past work. SCOPS acknowledged the Petitioner's submission of several letters, but gave them little weight due to a lack of corroboration.

On appeal, the Petitioner contends that he submitted evidence to satisfy "all of [the] factors" specified in *Dhanasar*, emphasizing the citation record of his scholarly publications. At the time of filing, the Petitioner's publications had accumulated 262 citations, with his most-cited article showing 68 of those citations.

SCOPS did not contest the Petitioner's past involvement in cited research, and acknowledged that the Petitioner holds sufficient credentials to work in chemical engineering. But the Petitioner's cited work dates from his now-completed graduate studies. The Petitioner earned his doctorate in May 2023, and has not shown that he has since received research funding or been employed, or offered employment, in a research position relating to the proposed endeavor as he first described it. The record before us does not show that the Petitioner is in a position to continue the graduate research that resulted in his cited articles.

We have already noted that the Petitioner has described numerous disparate potential activities, to which he added more after SCOPS issued the RFE. This vague and disparate range of possibilities does not lead us to conclude that the Petitioner has articulated a model or plan for future activities, or that he has made progress towards achieving the proposed endeavor. As noted above, some of the Petitioner's potential future activities have no demonstrated connection to chemical engineering, the field in which he holds a doctorate.

We acknowledge letters of interest from potential collaborators, but each letter describes a different potential collaboration, and even then many of these letters indicate that their projects are contingent on third-party funding that has not been secured. The record identifies several potential goals for the Petitioner's future work, but does not show that the Petitioner is well positioned to attain those goals.

In light of the above conclusions, the Petitioner has not met his burden of proof to show that his proposed endeavor has national importance and that he is well positioned to advance that proposed endeavor. Detailed discussion of the remaining *Dhanasar* prong cannot change the outcome of this appeal. Because the Petitioner has not otherwise established eligibility for the classification sought, we need not reach, and therefore reserve, the third *Dhanasar* prong. *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 established the national importance of the proposed endeavor, and has not shown that he is well positioned to advance that endeavor. Therefore, the Petitioner has not shown eligibility for the national interest waiver, and we will dismiss the appeal 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.