U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41495663

Date: FEB. 20, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is a semiconductor 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 visa classification, but he 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 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 U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion, 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.

Id. USCIS' decision to grant or deny an NIW is discretionary in nature. *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the First, Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals).

II. ANALYSIS

SCOPS determined that the Petitioner was eligible for the EB-2 classification as a member of the professions holding an advanced degree based upon the foreign degree he completed in 2022 that was equated to a United States Ph.D. in Physics. Accordingly, the sole issue on appeal is whether the Petitioner merits an NIW of the EB-2 classification's job offer requirement as a matter of discretion. We conclude that he does not.

A. National Interest Waiver

Within the initial filing, the Petitioner provided the following information about his proposed endeavor:

> My proposed endeavor is to develop novel semiconductor chips and methods to integrate them for high-performance, low-cost, and energy-efficient photonics and electronics systems used in the telecommunications, transportation, computing, and sensing applications. To progress this endeavor, I will utilize my extensive experience with semiconductor chip design and simulation, chip fabrication, chip packaging and testing, and data analysis. My work will continue to be circulated in the field through my peer-reviewed publications.
>
> I intend to pursue a position as a semiconductor device R&D engineer in the United States. I am most interested in pursuing this position with [redacted]. My planned research topics include assisting in the co-development of photonics-electronics chips for multi-core processors, optical transceiver systems and automotive LIDAR applications for example, with an on-chip photonic interconnect, and advanced semiconductor chip fabrication and packaging methods.
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> Please note that my research at [redacted] will be promoted at the national level through their partnerships, and research foundation. [redacted] is a world leader in designing and manufacturing microprocessors, system-on-chip, and other semiconductor products. [redacted] is a pioneer and global leader in developing silicon photonics products for future data center and next generation 5G applications. In 2022 [redacted] was the world's second-largest semiconductor manufacturer by revenue.

In response to SCOPS' request for evidence (RFE), he presented a second statement about his proposed endeavor, and he updated where he intended to work stating he had received a letter of intent from a professor at the [redacted] to perform research at her lab as a postdoctoral researcher or as a research scientist.

1. Substantial Merit and National Importance (Collectively *Dhanasar's* First Prong)

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. 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.* 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" and we look to evidence illustrating the "potential prospective impact" of their actual proposed work. *Id.* 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, particularly in an economically depressed area, for instance" (*Id.* at 890), or has the potential to widely advance and broadly affect U.S. strategic interests (*Id.* at 892).

USCIS policy also provides that "if the evidence of record demonstrates that the person's proposed endeavor has the significant potential to broadly enhance societal welfare or cultural or artistic enrichment, or to contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance." *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual (citing *Matter of Dhanasar*, 26 I&N Dec. at 889–90, 892).

SCOPS concluded that the evidence in the record addressed the importance of the industry in which the Petitioner's research is oriented, but that he had not shown that his proposed endeavor would have broader implications in the field.

First on appeal, the Petitioner discusses successes of his past research that SCOPS evaluated under prong one, but we note that is more related to the second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong.

Next, the Petitioner addresses the importance of the industry itself and how his planned work aligns with national initiatives. But as SCOPS noted, when we evaluate national importance, we evaluate the actual work the Petitioner will perform instead of the importance of the relevant industry or profession. *Matter of Dhanasar*, 26 I&N Dec. at 889. Also, simple alignment or shared common aspects with national initiatives are not sufficient to meet the first prong's national importance requirement. In focusing generally on the entirety of national priorities relying on specialized semiconductors, the Petitioner has not established his specific endeavor will substantially benefit and impact the field more broadly. Nor has he demonstrated he has the potential to widely advance and broadly affect U.S. strategic interests. *Matter of Dhanasar*, 26 I&N Dec. at 892. This misplaced focus does not address the national importance requirements of the *Dhanasar* decision, nor does it adequately tie the Petitioner's endeavor to those national research priorities.

The Petitioner also alleges that SCOPS ignored significant evidence in the form of a letter of intent from a professor. But we do not agree with that assessment as it is apparent that SCOPS relied on that letter to determine the Petitioner satisfied *Dhanasar's* second prong. That letter signaled a shift in which the Petitioner claimed he would perform his work from [redacted] to the [redacted]. What is not clear, is why SCOPS did not treat his changes in where he intended to work as a material change to his claims that fall under *Dhanasar's* second prong, but we address that aspect below.

He then turns to the portion of his personal statement in which the Petitioner notes that his work will continue to be circulated in the field through his peer-reviewed publications and that his work "in the United States will be widely disseminated through published research with impact rising to the level of national importance." In assessing the national importance requirement, we do consider the potential future impact of a proposed endeavor; however, that is simply the lens through which we review a petitioner's assertions. A petitioner must show that the proposed work has more than a generalized or minimal "potential prospective impact" in the field. Routine, marginal, or incremental contributions that merely expand the body of knowledge without broader ramifications are typically insufficient to satisfy *Dhanasar's* first prong. Despite the Petitioner's claims to the contrary, the record does not demonstrate how his endeavor has significant potential to broadly enhance societal welfare, to broadly enhance cultural or artistic enrichment, or to contribute to the advancement of a valuable technology or field of study" rather than having incremental or nominal impacts. *See generally* 6 USCIS Policy Manual, *supra*, F.5(D)(3) (which provides examples of proposed endeavors that may rise to the level of national importance).

And the Petitioner's assertions that his proposed endeavor will have such an impact in the field do not bear out as he has not offered probative evidence to corroborate his claims. Unsupported assertions have little evidentiary value and are insufficient to establish a filing party has satisfied their burden of proof; such assertions do not even make a prima facie eligibility showing. *See Matter of G-C-I-*, 29 I&N Dec. 176, 178 (BIA 2025). Routine, nominal, or commonplace improvements in a given discipline do not meet the national importance standard under the *Dhanasar* framework. *Matter of Dhanasar*, 26 I&N Dec. at 889–90 (giving examples indicating that a qualifying endeavor should have "national or even global implications within a particular field" or "significant potential . . . [to broadly impact the field] or [have] other substantial positive economic effects."). These examples reinforce that the proposed work should "impact the field . . . more broadly" (*Id.* at 893) and have "broader implications" (*Id.* at 889). While we do not diminish the importance of his anticipated work, a plan to create new computer chips and ways to connect them together so that devices used for communication, transportation, computing, and sensing work faster, cost less, and use less energy does not in itself sufficiently demonstrate how the proposed endeavor is likely to broadly influence the field.

The Petitioner then turns to discussing the support letters and alleges SCOPS did not properly consider that material. SCOPS mentioned letters the Petitioner submitted in support of his petition and surmised that they discussed his background and qualifications but they did not offer adequate insight into how his proposed endeavor will have broad implications in the field. The Petitioner's appeal brief raises two letters that SCOPS did not directly address and it alleges these letters explain the national importance of his proposed endeavor.

The first letter is from a senior scientist who works for the [redacted]. The Petitioner claims that "[a]s noted in the RFE Response, this independent evaluation from a senior official at a U.S. government research laboratory provides credible evidence that [the Petitioner's] work transcends routine academic research and has direct, tangible implications for U.S. scientific leadership and economic security." [redacted] states that "[g]iven the importance of his work, I am confident that [the Petitioner] will continue to drive innovation in U.S. technology development and make valuable contributions to national security." But it appears he made that assessment based on the Petitioner's past work as he discusses a few of his published papers but makes no mention of the particular proposed endeavor in which he intends to engage in the United States. [redacted] closes his letter stating the following about the Petitioner:

> [He] is a highly accomplished technologist whose research has had profound implications for IR imaging, LIDAR systems, spectroscopy, and other applications critical to national defense and commercial industries. His expertise in developing high-performance integrated light emitting chips, particularly in the infrared region, aligns closely with U.S. priorities and has the potential to shape the future of photonics integration and sensing technologies.

These comments relating to the Petitioner's past is more appropriately considered under *Dhanasar's* second prong than it is here under prong one. [redacted] also focuses on the importance of the industry and how it closely aligns with national priorities, but his letter lacks any discussion of how and why the Petitioner's proposed endeavor will have a meaningful impact on the broader field, as *Dhanasar's* first prong requires.

The second letter the Petitioner discusses on appeal is from the university professor who submitted a letter of intent to employ him. The Petitioner claims that her "letter does, in fact, provide 'insight into how the specific proposed endeavor will have broad implications,' satisfying the evidentiary requirement under the *Matter of Dhanasar* framework." While we agree that the professor mentions the Petitioner's future work, we disagree that she offered any salient details about it to substantiate his assertion that her letter establishes the national importance of his endeavor. After mentioning that his past work has been important, she states that she intends to employ him in a research position "in my group to continue his proposed endeavor. His research work could focus on advanced optoelectronics devices and their integration with silicon photonics—a research topic that has a broad national security significance in healthcare diagnostics, environmental monitoring, and telecommunications." This again focuses on the importance of the field, but falls short of establishing that his future work would have broader implications in the field.

As a final note, we agree with the Petitioner that the amount of time he will be able to devote to his proposed endeavor could be a more relevant topic under *Dhanasar's* second prong.

Because the Petitioner has not sufficiently established the national importance of his proposed endeavor as required by *Dhanasar's* first prong, he has not demonstrated eligibility for an NIW of the job offer requirement.

2. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. To determine whether they are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: (1) their education, skills, knowledge and record of success in related or similar efforts; (2) a model or plan for future activities; (3) any progress towards achieving the proposed endeavor; and (4) the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890.

Within the initial filing, the Petitioner claimed: "I intend to pursue a position as a semiconductor device R&D engineer in the United States. I am most interested in pursuing this position with [redacted]." But after SCOPS questioned his eligibility in the RFE, he amended his intended future work to perform research at a university lab as a postdoctoral researcher or as a research scientist.

We consider this a material change to the Petitioner's claims as he had not established eligibility at the time of filing, but sought to remedy the defect with materially different evidence after SCOPS put him on notice. A petitioner must establish eligibility at the time they file the visa petition. 8 C.F.R. § 103.2(b)(1), (12). USCIS may not approve a visa petition if the Petitioner was not qualified at the priority date but expects to become eligible at a subsequent time. *See Matter of Izummi,* 22 I&N Dec. 169, 175–76 (Assoc. Comm'r 1998); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). If a petitioner is notified of a deficiency in its claims or its evidence, new claims or new material that greatly differs from that previous presented without a sufficient explanation will not carry sufficient evidentiary weight if the preponderant reasoning behind the change was to remedy a shortcoming. *Cf. Baldwin Dairy, Inc. v. United States*, 122 F.Supp.3d 809, 816 (W.D. Wis. 2015) (concluding we were justified in questioning a petitioner's motives and whether the company simply amended submitted evidence for the sole purpose of establishing eligibility).

We therefore withdraw SCOPS' favorable determination under *Dhanasar's* second prong.

3. We Reserve *Dhanasar's* Remaining Third Prong

On appeal, the Petitioner asserts he meets additional eligibility requirements under the *Dhanasar* analytical framework, but he has not satisfied *Dhanasar's* necessary first or second prongs. Because this shortcoming is dispositive of the appeal, we reserve our opinion regarding the remaining issues. Where a case warrants a denial regardless of other eligibility considerations, it is unnecessary that we address those other considerations. *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 Jin*, 29 I&N Dec.

441, 450 n.10 (BIA 2026) (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.