U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40779080

Date: JAN. 2, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is a researcher 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 EB-2 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

A. Eligibility for the EB-2 Classification

SCOPS determined that the Petitioner was eligible for the EB-2 classification as a member of the professions holding an advanced degree based upon his Ph.D. in industrial engineering. 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 agree with SCOPS conclusion that he does not.

B. National Interest Waiver

The Petitioner stated his proposed endeavor consisted of the following:

> My proposed endeavor is to develop advanced three-dimensional integrated circuits designed to function as state-of-the-art artificial intelligence chips in order to enhance and facilitate process optimization, physics modeling, semiconductor integration, and cost reductions in semiconductor applications. To progress this endeavor, I will utilize my extensive experience with semiconductor physics, novel material development, and very-large-scale-integration. My proposed endeavor is my overarching goal for my research career, and it will not change regardless of where I am employed. Therefore, while I will engage in employment opportunities that are aligned with the goals of my proposed endeavor, my ability to pursue my proposed endeavor is in no way limited to any one employer or role.

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 extensively discussed how the Petitioner did not establish that his proposed endeavor would have an impact in the field. While we do not agree with all of SCOPS' determinations under their national importance discussion, we conclude that they ultimately made the correct decision.

On appeal, the Petitioner advances four arguments contesting SCOPS' denial: (1) they failed to consider all of the relevant evidence in its totality; (2) they failed to apply the proper legal standard; (3) they conflated the proposed endeavor with employment; and (4) they failed to properly evaluate the endeavor's relation to science, technology, engineering, or mathematics (STEM).

a. Whether SCOPS Failed to Consider All of the Relevant Evidence in its Totality

As it relates to considering all of the evidence in its totality, the Petitioner claims SCOPS' analysis under the first prong was vague. But the Petitioner's brief goes on to quote from a portion of the USCIS Policy Manual that relates to discretionary determinations and how USCIS must consider both positive and negative factors present in the case. Although the NIW statute and regulation includes the discretion to waive the job offer requirement mandated for other EB-2 immigrants, that discretionary authority does not manifest itself within every requirement stemming from the *Dhanasar* decision (i.e. not within all three prongs). The agency policy the Petitioner references in his appeal relates to benefit requests denied solely as a matter of discretion. But that is not the situation before us because SCOPS only found the Petitioner met the EB-2 requirements, then concluded he did not satisfy *Dhanasar's* first or third prongs. In doing so, SCOPS did not deny the NIW petition *solely* as a matter of discretion, but instead denied it for not meeting *Dhanasar's* requirements. As a result, neither the law nor policy required SCOPS to perform the type of discretionary analysis the Petitioner proposes.

Within this argument, the Petitioner also alleges that SCOPS mentioned support letters he submitted, but the "analysis does not mention any of the authors by name, nor does it refer to the specific contents of even one of these documents." But the Petitioner doesn't offer any names of the authors either, nor does he refer to the contents of any of the support letters that might aid in his efforts to show his proposed endeavor has national importance. Lacking from the appeal brief is a substantive argument explaining how the error the Petitioner alleges could have resulted in a different outcome had SCOPS discussed the broadly identified evidence. The Petitioner bears the burden to not only identify what they perceive as errors in the underlying decision, but they also must demonstrate the relevance and salience of the ignored evidence and how that would have positively impacted their case. A petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n.3 (BIA 1998).

The presumption of regularity applies in the immigration context, and it is presumed that an agency has reviewed all of the evidence before it. *Biden v. Texas*, 597 U.S. 785, 811 (2022); *I.N.S. v. Miranda*, 459 U.S. 14, 18 (1982). Applying the presumption of regularity, this Petitioner's burden is a heavy

one. *Cruz v. Bondi*, 146 F.4th 730, 740 (9th Cir. 2025). This burden demands "that a petitioner present 'clear, affirmative evidence' that the agency did not review the evidence before it." *Id.* (quoting *Gov't of Guam v. Guerrero*, 11 F.4th 1052, 1060 (9th Cir. 2021)); *Al-Hela v. Biden*, 66 F.4th 217, 236–37 (D.C. Cir. 2023).

A petitioner must first show what record evidence *in particular* was supposedly ignored or misconstrued by the agency, and such a showing cannot be vague, nor can it gesture broadly toward swaths of evidence—it must be clear and affirmative. *Cruz*, 146 F.4th at 740 (citing *Gov't of Guam*, 11 F.4th at 1060); *Colindres v. U.S. Dep't of State*, 71 F.4th 1018, 1025 (D.C. Cir. 2023). Second, a petitioner must explain why that evidence was not only material, but also "highly probative or potentially dispositive." *Cruz*, 146 F.4th at 740 (quoting *Cole v. Holder*, 659 F.3d 762, 772 (9th Cir. 2011)). But here the Petitioner has not met that burden and they have not demonstrated that the evidence that was not specifically discussed would have affected this case's outcome (i.e., that they were prejudiced by the lack of discussion). *Id.* (quoting *Najmabadi v. Holder*, 597 F.3d 983, 991 (9th Cir. 2010)). *See also Rhoa-Zamora v. I.N.S.*, 971 F.2d 26, 34 (7th Cir. 1992), *as modified on denial of reh'g* (Nov. 4, 1992); *Safari Club Int'l v. Haaland*, 31 F.4th 1157, 1177–78 (9th Cir. 2022).

It is not enough to allege errors in an agency's decision; an applicant must also establish that they were prejudiced by the mistake. *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009); *Molina-Martinez v. United States*, 578 U.S. 189, 203 (2016). The Petitioner has not demonstrated he was prejudiced when SCOPS did not directly discuss the material, and this is insufficient grounds upon which to base this appeal.

b. Whether SCOPS Failed to Apply the Proper Legal Standard

Second, the Petitioner alleges this error when SCOPS: (1) included a reference to contributions of major significance; (2) indicated his endeavor did not differentiate his efforts from others in the field; and (3) used the phrase "broad, far-reaching implications that extend beyond his immediate professional sphere."

We agree with the Petitioner that the SCOPS' discussion of contributions of major significance is not a requirement under this immigration benefit, but we do not agree with his other points. When SCOPS' referenced that the Petitioner did not differentiate his endeavor from the efforts of others in the field, their point appears to be that his efforts have substantial merit, but lacking is what impact his efforts will have in the field beyond making incremental improvements to what is already present. That falls short of demonstrating the potential prospective impact of his work more broadly to the field will be anything more than a nominal. This is comparable to the alien's teaching activities in the *Dhanasar* decision that did not rise to the level of having national importance because they would not "impact the field of STEM education more broadly." *Matter of Dhanasar*, 26 I&N Dec. at 893. The Petitioner has not demonstrated error on SCOPS' part here.

Finally, their use of the phrase "broad, far-reaching implications that extend beyond his immediate professional sphere" conveys the requirement that petitioners must demonstrate the proposed endeavor will "impact the field . . . more broadly" (*Id.*), that it has "broader implications" (*Id.* at 889), and that an endeavor may have "national or even global implications within a particular field" (*Id.*), or has the potential to widely advance and broadly affect U.S. strategic interests (*Id.* at 892). As such, while we

do not utilize the specific terminology SCOPS did here, the Petitioner has not demonstrated that they have veered off course to include requirements not contained in the *Dhanasar* decision.

c. Whether SCOPS Conflated the Proposed Endeavor with His Future Employment

Third, the Petitioner notes that SCOPS conflated his proposed endeavor with employment. Within the initial filing, the Petitioner stated his "proposed endeavor is my overarching goal for my research career, and it will not change regardless of where I am employed." A review of SCOPS' decision reflects they placed some focus on his proposed endeavor and that the Petitioner would achieve his efforts while employed, and also discussing how that would limit the endeavor's impact to the employer and their clients. We acknowledge his claims that his proposed endeavor will not be tied directly to any single employer and our prong one analysis will not center on that aspect.

But we do not agree with the Petitioner that SCOPS' decision "grafted a limitation on [the Petitioner's] proposed endeavor based upon his employment status and then analyzed that modified endeavor in place of the actual proposed endeavor." SCOPS did not solely evaluate the Petitioner's endeavor as being tied to an employer and based the entirety of their analysis to that limitation. They also discussed the endeavor as being research and what impact that might have on the broader field.

Simply "advancing goals" that are nationally important, as the Petitioner claims here, doesn't make the cut to be nationally important. And on the issue of what the *Dhanasar* decision requires to demonstrate national importance, a review reveals that Dr. Dhanasar presented *his* proposed endeavor as having a significant impact in his field, as did many of the expert letters supporting his petition. And when we considered Dr. Dhanasar's appeal, we performed two evaluations to determine what did, and what did not, qualify as a proposed endeavor under prong one's national importance requirements. We decided his future research efforts qualified, while his future teaching endeavor did not.

Ultimately, the question petitioners should answer for prong one's national importance requirement is not whether an endeavor could touch its broader field in some limited way, but whether it could impact the field in ways that carry national importance. Routine or incremental contributions that merely add knowledge or other improvements to the field without broader implications are generally insufficient to satisfy *Dhanasar's* prong one requirements. *See id.* at 889–90, 893 (concluding through its descriptive language that an endeavor's impact in a field should be wide or extensive and should not be limited, e.g., "broader implications," "significant potential," "substantial positive economic effects," and "more broadly").

The *Dhanasar* decision provides examples illustrating that—when it comes to national importance—a qualifying endeavor cannot rest on minimal effects. The decision does not provide that we only consider whether an endeavor has the potential to have *any* prospective impact in the field. Interpreting the requirements in that manner would effectively nullify the stature requirement under prong one that the endeavor must be of national importance. Instead, it should include qualitative aspects and have "national or even global implications within a particular field" or have "significant potential to employ U.S. workers or has other substantial positive economic effects." *Id.* at 889–90. (Emphasis added).

We implemented that concept in the *Dhanasar* decision itself when we drew the distinction between his two claimed endeavors: one to continue research into propulsion systems for nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles, and another endeavor to continue teaching aerospace engineering at the university level. The potential level of impact of Dr. Dhanasar's future research was a key factor in demonstrating that his work met the criteria of being nationally important under the first prong. What makes this apparent was his future efforts in teaching did not have a sufficient level of impact in the broader field and therefore, did not meet the national importance requirements under prong one. Dr. Dhanasar did not show that he "would be engaged in activities that would impact the field of STEM education more broadly."

A proposed endeavor should demonstrate qualitative contributions—such as adequately advancing knowledge, improving practices, or creating conditions with national or even global implications—rather than relying on vague or incremental effects. USCIS policy guidance further reinforces this qualitative approach as being proper, stating that national importance may be established "if the evidence of record demonstrates that the person's proposed endeavor has the *significant* potential to" have a noteworthy positive impact on society or a particular technology or area of study. *See generally* 6 *USCIS Policy Manual*, *supra*, F.5(D)(3), (citing *Matter of Dhanasar*, 26 I&N Dec. at 889–90, 892). (Emphasis added).

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 specific endeavor that the alien proposes to undertake" and we look to evidence illustrating the "potential prospective impact" of their actual proposed work. *Matter of Dhanasar*, 26 I&N Dec. at 889. SCOPS conveyed this in their request for evidence and in the petition's denial decision, but it appears the Petitioner refuses to accept the agency's ruling on the issue. The Petitioner has the burden to submit claims and evidence that preponderantly meet the requirements as specified in the statute, regulation, precedent decisions, and agency policies. But he has not satisfied that burden here. *See Matter of Y-B-*, 21 I&N Dec. at 1142 n.3 (finding that the filing party's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion).

The crux of the purpose of the national importance element in the NIW category is not that an alien is doing important work. While that may be a consideration under *Dhanasar's* first prong, it falls under prong one's substantial importance requirements. Instead, national importance means that the individual's proposed endeavor is likely to have a noteworthy distinct and qualitative impact in the field in which the alien performs the endeavor. So, doing important work is one requirement, but those seeking an NIW must show their efforts are more than that, and that their work will have repercussions in the field.

As SCOPS noted in their denial decision, the Petitioner's claims that his efforts are nationally important could be adopted and used by anyone performing the same type of work. It therefore appears to be the Petitioner's position that every immigrant doing the same type of research that he proposes should qualify for *Dhanasar's* first prong simply by performing the work. That is wholly inadequate to meet the nationally important requirements under the NIW classification and the Petitioner seemingly has conflated prong one's substantial merit requirements with its national importance mandate.

d. Whether SCOPS Failed to Properly Evaluate the Endeavor's Relation to STEM

To the Petitioner's fourth claim is that SCOPS "failed to evaluate STEM," when they stated:

> The petitioner has not established that the proposed endeavor aims to advance STEM technologies or research. The record does not show that the proposed endeavor would have an impact in a STEM field more broadly to establish its national importance. STEM activities which do not impact a field more broadly are not of national importance. *Dhanasar*, 26 I&N Dec. at 893.

The analysis in the Petitioner's appeal brief stops after the first quoted sentence above. But in doing so, the Petitioner has omitted highly relevant information: that USCIS policy requires petitioners to show their STEM endeavor meets all of *Dhanasar's* prong one requirements. The policy specifically provides:

> With respect to the first prong, as in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit *and national importance*. Many proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, not only have substantial merit in relation to U.S. science and technology interests, but also have sufficiently broad potential implications to demonstrate national importance.

See generally 6 *USCIS Policy Manual*, *supra*, F.5(D)(4) (emphasis added). Contrary to the Petitioner's assertions, he has not demonstrated his particular proposed endeavor has national importance and as such, he hasn't established that any specific evidentiary considerations relating to STEM degrees or fields should factor into USCIS' analysis regarding his claims. So, while SCOPS might have better expressed itself in stating "the petitioner has not *sufficiently* established that the proposed endeavor aims to advance STEM technologies or research," this was not a controlling error on their part.

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. *Matter of Dhanasar*, 26 I&N Dec. at 890.

SCOPS found the Petitioner satisfied this prong as the Petitioner notes in the appeal brief. But as we observed above when we closed out prong one, some of SCOPS' adverse determinations under prong one are better considered under prong two. And were SCOPS to have factored that information into their prong two analysis, it is not clear that they would have granted prong two to the Petitioner. We therefore withdraw SCOPS' prong two determination rather than leading him to believe that in any motion he files on this decision, or in any future NIW petition, he should expect prong two to be satisfied.

Additionally, *Dhanasar's* second and third prongs require the Petitioner to demonstrate he is eligible for an NIW meeting additional requirements. But because the Petitioner has not established that his proposed endeavor satisfies the *Dhanasar* framework's first prong, he is not eligible for an NIW and further discussion of the second and third prongs would serve no meaningful purpose. Consequently, we will not address and we reserve the Petitioner's remaining appellate arguments. *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 Lema Mizhirumbay*, 29 I&N Dec. 351, 353 n.2 (BIA 2025) (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.