U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40785416

Date: JAN. 07, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a graduate research assistant, 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).

Service Center Operations (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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(k)(2). Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[1] 8 C.F.R. § 204.5(k)(2).

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

[1] Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[2] 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.

II. ANALYSIS

We will first address the threshold requirement that the Petitioner must qualify for the EB-2 classification under Section 203(b)(2)(B)(i) of the Act. The record demonstrates that the Petitioner obtained a master of science degree in computer science from the [redacted] in 2023. Therefore, the Petitioner qualifies for the EB-2 classification as an advanced degree professional and we will withdraw SCOPS' contrary finding on this issue.[3]

At the same time, we note that the Petitioner did not complete all the required information on U.S. Department of Labor (DOL) Form ETA 9089, Application for Permanent Employment Certification, Appendix A: Foreign Worker Information. The Petitioner repeatedly wrote "N/A" (for "not applicable") in the sections pertaining to his educational attainment, training qualification, and work experience, and filled out only the contact information section. Therefore, we withdraw SCOPS' conclusion that the Petitioner has submitted a properly completed Form ETA 9089.[4] *See* 8 C.F.R. § 204.5(k)(4)(ii) (requiring submission of Form ETA 750B, Statement of Qualification of Alien, to apply for the national interest exemption); *see also* 6 *USCIS Policy Manual* F.5(D), https://www.uscis.gov/polic-manual (requiring the petitioner to submit the employee-specific portions of a permanent labor certification, using either the Form ETA 750B or Form ETA 9089).

Now we turn to the Petitioner's eligibility for the national interest waiver under *Dhanasar*. SCOPS concluded that the Petitioner did not meet any of the *Dhanasar*'s three prongs. Upon review, we agree with SCOPS that the Petitioner has not established that his proposed endeavor has national importance under the first *Dhanasar* prong or that he is well-positioned to advance his endeavor under the second prong. As these issues are dispositive of the appeal, we decline to reach and hereby reserve our opinion on whether or not, on balance, waiving the labor certification requirement would benefit the United States under the third prong of *Dhanasar*. *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).

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[2] *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).

[3] SCOPS' analysis focused on whether the Petitioner's position as a "cybersecurity researcher" is a profession. SCOPS stated that a cybersecurity researcher corresponds to the position of "information security analyst" according to DOL's Occupational Outlook Handbook and disagreed with the Petitioner that it is comparable to being a "computer scientist." However, both positions require a minimum of a bachelor's degree and meet the definition of "profession" under 8 C.F.R. § 204.5(k).

[4] We acknowledge that SCOPS previously erred in requesting outdated sections of Form ETA 9089 from the Petitioner.

A. Whether the Proposed Endeavor Has Substantial Merit and National Importance

The Petitioner began his Ph.D. program in information technology[5] and his work as a graduate research assistant at [redacted] in August 2023. In the initial petition filed in May 2024, the Petitioner proposed to "research in various fields of artificial intelligence [AI] and make them secure and trustworthy to use in different autonomous systems." The Petitioner explained that he is working on "uncovering the vulnerabilities of AI-based computer vision models within autonomous vehicles" and "my future goal is . . . to develop more secure, resilient AI models that can withstand these adversarial manipulations." The Petitioner further claimed that "my research for securing autonomous systems also has profound implications for military applications" but did not elaborate on whether his future activities will involve enhancing any specific type of military and defense AI technologies. In response to the request for evidence (RFE), the Petitioner submitted an updated personal statement with the following proposed endeavor:

> As an active researcher focused on cybersecurity, Artificial Intelligence and autonomous systems, my proposed endeavor aims to build secure, robust, and privacy-preserving AI infrastructure – particularly in distributed learning systems like Federated Learning (FL) which are increasingly deployed in connected and autonomous robots, vehicles, and wireless edge devices.

In addition to his personal statements, the Petitioner provided various articles regarding the trends and forecasts of autonomous vehicle industry, benefits, safety issues, and future directions of automated vehicles, and an article from the National Science Board showing the importance of recruiting international STEM talent. Based on these articles, we conclude that the Petitioner has demonstrated substantial merit of his endeavor which is to research cybersecurity issues in autonomous vehicles and withdraw SCOPS' determination on this matter.

However, the Petitioner has not shown that his endeavor has national importance. In determining national importance, the relevant question is not the importance of the field, industry, or professional in which the individual will work; instead, the focus is on the "the specific endeavor that the foreign national proposes to undertake" and the endeavor's "potential prospective impact." *Dhanasar*, 26 I&N Dec. at 889. The Petitioner claimed that his work contributes to "the improved security and safety of autonomous systems" but the record does not sufficiently corroborate that his research or methodologies broadly impact the field of cybersecurity and artificial intelligence in autonomous vehicles. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner contends on appeal that SCOPS erred by unduly focusing on "uniqueness and novelty" of his endeavor, but SCOPS's analysis properly aligns with *Dhanasar*, which indicates that the endeavor's potential prospective impact can be shown by having national or global implications within a field, "such as those resulting from certain improved manufacturing processes or medical advances." *Dhanasar,* 26 I&N Dec. at 889. The Petitioner has repeatedly claimed that his endeavor has "unique approach" and "new algorithmic strategies," suggesting that the endeavor contributes to the field by

[5] The Petitioner's updated resume submitted with the RFE response indicates that his Ph.D. program is in information technology with a concentration in cyber security engineering.

disseminating improved processes or advanced methodologies through his research. However, the evidence in the record, including his personal statements, recommendation letters, and his two journal articles, does not show that his research in AI safety, secure communications, and autonomous transportation has such widespread impact or influence.[6]

We reviewed two recommendation letters from individuals affiliated with [redacted] in Bangladesh.[7] Both letters claim that the Petitioner's research impacted "the greater academic community" and "contributed essential advancements to the field" but do not offer persuasive details on how his research and methodologies impact the field of cybersecurity in autonomous vehicles overall. The Petitioner also submitted his Google Scholar profile showing a total of 21 citations, first pages of two journal articles published in 2020 and 2023, and a letter from an assistant professor at [redacted] However, the expert letter does not address the reach and impact of the Petitioner's research or his citation record; instead, it defends the standard citation conventions in scholarly publishing in general. Other supporting documents such as the Biden administration's fact sheet and articles on the importance of cybersecurity issues of AI and autonomous vehicles, as well as STEM career generally discuss the field or the profession without specifically mentioning the Petitioner's endeavor's impact.

In *Dhanasar*, we gave significant weight to "probative expert letters from individuals holding senior positions in academia, government, and industry that describe the importance of hypersonic propulsion research as it relates to U.S. strategic interests" and "detailed expert letters describing U.S. Government interest" in Dr. Dhanasar's specific research. *Id.* at 892. However, the Petitioner has not provided similar evidence, such as the type of expert opinion evidence or letters from government entities detailing how his research impacts a matter that is a subject of national initiatives. None of the articles and reports specifically mention the Petitioner's endeavor or discuss the government's interest in promoting the use of the Petitioner's research.

Although the record reflects the Petitioner's intention to provide beneficial research to enhance security in autonomous vehicles, the Petitioner has not offered sufficient information or corroborating evidence to establish the prospective impact of his specific proposed endeavor. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of national importance because they would not extend beyond his students to impact the field more broadly. *Id.* at 893. Similarly, the Petitioner has not sufficiently established that his proposed endeavor will extend beyond his graduate level research to impact the field at a level commensurate with national importance.

B. Whether the Petitioner Is Well-Positioned to Advance the Proposed Endeavor

We agree with SCOPS that the record does not support the Petitioner is well-positioned to advance his endeavor under the *Dhanasar*'s second prong. The Petitioner contends on appeal that SCOPS

[6] The Petitioner also contends that SCOPS erred by discussing the citations of his journal articles and "expertise" of the Petitioner in the first prong. Although we generally agree that the second prong shifts the focus from the proposed endeavor to the individual's education and accomplishments, here SCOPS properly considered the evidence as it relates to both prongs. While the evidence of journal citations was relevant to the endeavor's potential prospective impact in the first prong analysis, the same evidence also pertained to the second prong factors such as the Petitioner's record of success or interests from relevant entities or individuals.

[7] The Petitioner attended this university as an undergraduate student in Bangladesh.

incorrectly applied the second prong factors, but we do not find the Petitioner's arguments persuasive. To determine whether they are well positioned to advance the proposed endeavor, 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.* at 890. Here, SCOPS highlighted relevant evidence and analyzed them in accordance with these factors.

We first consider the factors regarding the Petitioner's education, skills, knowledge, and record of success. *Id.* Here, the Petitioner earned a master's degree in 2023, and while this is sufficient to show his eligibility for the underlying immigrant classification, the Petitioner has not demonstrated that this level of education puts him into a strong position to advance his proposed endeavor. We note that the Petitioner began his doctoral program in 2023 and did not yet possess a Ph.D. in his field as of the time of filing. We consider an advanced degree, particularly a Ph.D., in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology an especially positive factor to be considered along with other evidence in assessing the second prong. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(4).

Regarding the Petitioner's record of success in related or similar efforts, the evidence does not demonstrate that the published work that the Petitioner has contributed to has been cited frequently by independent researchers at a rate that is high relative to others in the field. His research at the time of filing resulted in two journal articles published in 2020 and 2023. The Petitioner included his Google Scholar profile page showing 21 citations on the journal article entitled [redacted]," published in 2020 but did not specify how many citations were self-citations by his or his co-authors. The other journal article entitled [redacted] published in 2023 did not receive any citations. This shows that the Petitioner has developed skills and knowledge that would be useful in continuing to research cybersecurity issues in autonomous systems. However, the Petitioner's brief history of publishing the results of his research does not sufficiently show a record of success relating to his proposed endeavor. Despite the Petitioner's claim that his citations are notable, the evidence does not sufficiently establish that the Petitioner's research is influential or constitutes a record of success.

Furthermore, the Petitioner has not established that the number of citations received by his published articles reflect a level of interest in his work from relevant parties sufficient to meet *Dhanasar*'s second prong. While we listed Dr. Dhanasar's "publications and other published materials that cite his work" among the documents he presented, our determination that he was well positioned under the second prong was not based on his citation record alone. Rather, in our precedent decision, we found "[t]he petitioner's education, expertise, and experience in his field, the significance of his role in research projects, as well as the sustained interest of and funding from government entities such as NASA and AFRL, position him well to continue to advance his proposed endeavor of hypersonic technology research." *Id.* at 893.

We similarly conclude the record lacks sufficient evidence of interest from potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890. On appeal, the Petitioner contends that "his work has received significant funding" from the U.S. National Science Foundation (NSF) and

NuRamp. However, the evidence in the record does not support his assertion. Instead of providing an official letter of award from NSF, the Petitioner provided an email dated February 19, 2025, requesting demographic data from "NSF-supported project." As this email postdates the date of filing, we cannot consider "facts that come into being only subsequent to the filing of a petition." *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). The petitioner must be eligible as of the date of filing. *See* 8 C.F.R. § 103.2(b)(12). The Petitioner further provided an email from "NuRamp" indicating that his project was approved for an award of $5,000 in 2022; however, the Petitioner has not explained what type of entity is NuRamp and how prestigious or significant it is to receive funding from NuRamp.

Additionally, the Petitioner has not sufficiently shown his plan for future activities and any progress toward achieving the proposed endeavor. *Dhanasar*, 26 I&N Dec. at 890. The Petitioner asserted that he is "deeply committing to conducting my research" and will expand his work into "[hardening] AI models used in national transportation systems, emergency robotics, and next-generation wireless infrastructure" and "collaborate with federal research programs to integrate these frameworks into AI testing and certification pipelines." However, the Petitioner has not explained the specific steps or plans for expanding his research and collaborating with federal research programs aside from his generalized assertions in his personal statements.

The record demonstrates that the Petitioner has conducted and published research during his graduate studies and we recognize that research must add information to the pool of knowledge in some way in order to be accepted for publication, presentation, funding, or academic credit. But not every individual who has performed original research 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. Although the Petitioner claims that the SCOPS improperly discounted his accomplishments, he has not presented sufficient evidence to establish that he is well positioned to advance the proposed endeavor. The Petitioner's knowledge and skills as demonstrated by his education and publications are positive factors. However, they are not sufficient to overcome the lack of evidence demonstrating the Petitioner's model or plan for future activities, his progress toward achieving the endeavor, 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.

III. CONCLUSION

As the Petitioner has not met the requisite first and second prong of the *Dhanasar* analytical framework, he has not established eligibility for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

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.