U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40764630

Date: JAN. 13, 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 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).

SCOPS denied the petition. SCOPS determined that the Petitioner qualifies as a member of the professions holding an advanced degree. However, SCOPS concluded that the record does not establish that a waiver of the job offer requirement, and thus of a labor certification, would be 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). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

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,[1] 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 the proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

As noted above, SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree. The extent of SCOPS' analysis was, "Evidence of Master of Science Degree in Electrical Engineering from [redacted] received in August 2012 . . . qualifies [the Petitioner] as a member of the professions holding an advanced degree." SCOPS did not address whether the Petitioner's foreign degree is equivalent to a U.S. academic or professional degree above that of a baccalaureate, as required by 8 C.F.R. § 204.5(k)(2). Therefore, we withdraw SCOPS' statement that evidence of the Petitioner's foreign degree—without more—qualifies him for second preference classification as a member of the professions holding an advanced degree. *See id.*

A. National Importance

SCOPS determined that the proposed endeavor satisfies the first *Dhanasar* prong. However, the extent of SCOPS' analysis was stating that the Petitioner "submitted sufficient evidence to establish the endeavor has substantial merit" and that he "submitted sufficient evidence to establish the endeavor has national importance." We agree that the record establishes the Petitioner's proposed endeavor has substantial merit. However, for the reasons discussed below, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong. *See id.*

The Petitioner described the endeavor as a plan "to continue his research on developing accurate semiconductor device characterization and modeling techniques to identify and rectify the causes of device failure and validate the risks associated with next-generation products in order to drive the development of new memory devices, processes, and structures." More specifically, he stated that he intends "to pursue a position as a semiconductor device engineer . . . with [redacted]," similar to his work as a staff engineer for [redacted] since 2012, noting that his proposed endeavor "will not change regardless of where I am employed," should it be with an employer other than [redacted]. He also submitted information regarding his qualifications, information about scholarly research papers he co-authored and published, copies of publications providing generalized information regarding semiconductors, and letters of recommendation.

In determining national importance under the first *Dhanasar* prong, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on "the specific endeavor that the [individual] proposes to undertake"

[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).

and "we consider its potential prospective impact," looking for "broader implications." *Matter of Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or those with "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Matter of Dhanasar*, 26 I&N Dec. at 889-90.

We recognize the importance of progress in science, technology, engineering, and mathematics (STEM) fields and the essential role of persons with advanced STEM degrees in fostering this progress, especially in focused critical and emerging technologies or other STEM areas important to U.S. competitiveness or national security. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual. However, as in all cases, a proposed endeavor implicating a STEM field must demonstrate not only substantial merit but also national importance, such as by having national or even global implications within a particular field, beyond merely being in a STEM field. *See generally id.*; *see also Matter of Dhanasar*, 26 I&N Dec. at 889-90.

The record establishes that the fields of electrical engineering and semiconductor research and development in general have importance. However, as explained above, the question for determining whether a proposed endeavor has national importance is not merely whether the endeavor will be in an industry, field, or profession that has importance. Rather, the focus is on whether the specific endeavor may have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong, such as national or even global implications within a particular field. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. As noted above, the Petitioner submitted information regarding his qualifications and prior research he co-authored, generalized information regarding semiconductors, and letters of recommendation. Although the proposed endeavor may benefit [redacted] or any other potential employer, the record does not establish how the Petitioner's proposal to work as one of potentially many similar researchers for a given employer may have national or even global implications within the field of electrical engineering, semiconductor research and development, or any other field, such as those resulting from certain improved manufacturing processes. As another potential indicator of national importance, the record does not establish how the specific endeavor may have significant potential to employ U.S. workers or have other substantial positive economic effects. *See id.* Because the record does not support the conclusion that the proposed endeavor may have national importance, we withdraw SCOPS' statement to the contrary. Therefore, the record does not satisfy the first *Dhanasar* prong, which is dispositive. *See id.*

B. Well-Positioned to Advance the Proposed Endeavor

Turning to SCOPS' stated grounds for denying the petition, SCOPS acknowledged that the record contains information regarding his qualifications, information regarding scholarly articles he co-authored and published, and letters of recommendation. However, SCOPS noted that the record does not establish how the Petitioner's work demonstrates a record of success or sufficient interest from relevant entities or individuals. Based on those issues, SCOPS determined that the record does not establish the Petitioner is well-positioned to advance the proposed endeavor, as required by the second *Dhanasar* prong. *See id.*

On appeal, the Petitioner reasserts that he is well-positioned to advance the proposed endeavor. He references his foreign degree in electrical engineering, he describes his personal statement as a model or plan for future activities, he characterizes citations to articles he co-authored as progress towards achieving the proposed endeavor, and he reasserts that his work has been implemented by others, as evidence of interest of relevant entities or individuals.

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the individual pursuing it. To determine whether an individual is well-positioned to advance the proposed endeavor, we consider factors including, but not limited to: 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. *See Matter of Dhanasar*, 26 I&N Dec. at 890.

We acknowledge that the Petitioner's academic history and prior research are relevant to the proposed endeavor. However, the record contains limited information regarding the Petitioner's model or plan for future activities. For example, the personal statement he submitted in response to SCOPS' request for evidence (RFE) asserts that he "aim[s] to develop a predictive reliability framework for NAND Flash-based server storage." However, whether—and when—the Petitioner may work on this project is unclear, given that he seeks to work as an employee of [redacted] or a similar employer, who may require the Petitioner to work on other projects on a full-time basis rather than allowing him to determine his own job duties and assignments. Moreover, even to the extent that the Petitioner may develop the framework he references, neither his personal statement nor the remainder of the record provide details regarding his model or plan for these activities, such as securing funding if this is not funded by his employer, when he plans to conduct certain phases of research and prepare the information for publication, and other information about the proposed research that forms the type of model or plan for future activities contemplated by the second *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 890. Without more, the Petitioner's generalized statements do not present a strong indication of a model or plan for future activities regarding the proposed endeavor.

Next, as SCOPS addressed, the record provides insufficient information regarding the Petitioner's record of success in related or similar efforts. He provides information regarding six research articles he co-authored, published between 2013 and 2023, inclusive; however, the record does not establish the significance of authoring or co-authoring six publications in an 11-year period, as compared to other electrical engineering researchers. For example, information in the record regarding another electrical engineering researcher informs that, in contrast to the Petitioner, the other researcher "[p]ublished over 70 technical journals and conference proceedings."

The Petitioner's role in each of the six research articles appears attenuated, as he is listed twice each as the third, fourth, and fifth credited researcher. Moreover, even to the extent that the Petitioner's contributions to these six publications within an 11-year period as third, fourth, or fifth credited researcher may indicate success in related or similar efforts, the record does not establish the significance of the number of citations to the articles. More specifically, the article published in 2023 apparently had no citations at the time the Petitioner filed the Form I-140, Immigrant Petition for Alien

Workers, in January 2025, and the article he published in 2021 had only two citations.[2] The four articles published in 2013, 2014, and 2015 had 50, 25, 17, and nine citations, respectively, although the record does not establish the significance of electrical engineering scholarly research articles receiving those numbers of citations, compared to similar articles.

Pursuant to the USCIS Policy Manual, documentation demonstrating a strong citation history of a petitioner's work or excerpts of published articles showing positive discourse around, or adoption of, the petitioner's work are types of evidence that may demonstrate that a petitioner is well positioned to advance a proposed endeavor. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policymanual. The Petitioner submits information regarding citations he describes as notable, but this selective set of information does not fully reflect the substance of the citations in general, such as those that may be critical of the information in the articles the Petitioner co-authored, or self-citations by some of the co-authors in other articles they may have published subsequently. The Petitioner asserts that citations establish that "research teams from all over the world have utilized [his] work in their own endeavors." However, the copies of citing articles in the record provide little or no information regarding how the Petitioner's—or more specifically the research team for which he worked as third, fourth, or fifth co-author—work has been utilized, as claimed, and where any given utilizer may be located. Here, the Petitioner has not demonstrated that his citation record or discourse around or adoption of his published works reflect a record of success, or interest from other relevant entities or individuals sufficient to meet *Dhanasar*'s second prong. *See Matter of Dhanasar*, 26 I&N Dec. at 890.

Next, we acknowledge that the Petitioner submitted letters of recommendation from other electrical engineers, including the primary or second author credited for several of the articles the Petitioner co-authored. As a matter of discretion, we may use opinion statements submitted by a petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we may give an opinion less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.*; *see also* Fed. R. Evid. 702 (providing that an expert opinion may "help the trier of fact to understand the evidence or to determine a fact in issue," not that it is evidence of fact itself).

The letters of recommendation generally discuss the Petitioner's support role in his research projects and activities as the third, fourth, or fifth credited researcher. Relatedly, as noted above, the articles for which the Petitioner was a credited co-author received few or no citations at the time he filed the Form I-140, which does not demonstrate much success in similar efforts, or interest from other relevant individuals. *See Matter of Dhanasar*, 26 I&N Dec. at 890. We note that one letter generally claims

[2] The Petitioner submitted additional citation information in response to SCOPS' RFE. However, A petitioner must establish eligibility for the benefit it is seeking at the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(1). A visa petition may not be approved based on speculation of future eligibility or after a petitioner becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998). Because the additional citation information is dated after the Form I-140 filing date, it cannot establish eligibility. We note, however, that even if the updated citation information could establish eligibility, it provides a negligible difference of only six additional citations total among the six articles in question.

that the Petitioner's "work continues to be widely circulated among his colleagues." However, neither the letter nor the remainder of the record substantiates this claim. For example, neither the letter nor the remainder of the record clarifies what work of the Petitioner's in particular, is circulated. Beyond the author's vague reference, neither the letter nor the remainder of the record substantiates the scope of the generalized colleagues who allegedly circulate the Petitioner's work and what classifies this unspecified circulation as wide. On the contrary, as noted above, the six articles the Petitioner has co-authored over an 11-year period apparently have had few or no citations, which, without more, does not indicate significant attention or wide circulation. Unsubstantiated claims such as these do not help us understand evidence or determine facts, and they reduce the probative value of the letter. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. at 795; *see also* Fed. R. Evid. 702. In turn, we note in particular that one of the letters the Petitioner describes as evidence of interest from relevant entities or individuals is written by a senior coworker of his, employed by his current employer, and with whom the Petitioner co-authored most of the work the Petitioner generally asserts has attracted interest. Evidence that the Petitioner's current employer and, more specifically, the senior researcher who co-authored the articles is interested in his own research is not evidence of interest of *other* relevant entities or individuals. Although the letters of recommendation support the conclusion that the Petitioner has assisted—and is likely to continue assisting—other researchers in their research projects, they do not support the conclusion that the Petitioner is well-positioned to advance the proposed endeavor.

Considering the totality of circumstances, the Petitioner has not demonstrated by a preponderance of the evidence that he is well-positioned to advance his proposed endeavor; thus, he has not established that he satisfies the second prong of the *Dhanasar* framework, which is dispositive. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90.

Because we determine that the record does not support the conclusion that the proposed endeavor has national importance, and because the record does not satisfy the second *Dhanasar* prong, both of which are separately dispositive, we reserve our opinion regarding whether the record satisfies the third *Dhanasar* prong. *See id.*; *see also INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

As the Petitioner has not met the requisite first and second prongs of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver 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.