U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37860527

Date: JUN 13, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a mechanical engineer and researcher, 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, concluding that the record did not establish that a waiver of the required job offer, 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.

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 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.

Id.

II. ANALYSIS

The Petitioner proposes to continue his research on "developing mechanisms for advanced manufacturing in healthcare in order to improve prostheses and orthoses for rehabilitation." SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree.[2] The sole 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. For the reasons discussed below, we conclude the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

A. Substantial Merit and National Importance

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.* The Petitioner seeks to continue his research in a role as an assistant professor at the University [redacted] or a similar employer. He states that he intends to pursue research focused on "advanced manufacturing techniques for healthcare, the development of crash absorbers for the automative industry, and advanced robotics utilizing complaint mechanisms, as well as publish original mechanical engineering research in peer-reviewed journals and conferences." SCOPS found that the Petitioner's proposed endeavor has both substantial merit and national importance. We agree with SCOPS that the Petitioner meets *Dhanasar*'s first prong.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether they are 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. *Id.*

In denying the petition, SCOPS concluded that the Petitioner did not demonstrate eligibility for a national interest waiver because he did not establish that he is well positioned to advance the proposed endeavor and that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. On appeal, the Petitioner contends that SCOPS abused its discretion by failing to properly evaluate the submitted evidence under the correct standard of proof.

[2] The Petitioner earned a Doctor of Philosophy degree (Ph.D.) and master's degree in mechanical engineering from the [redacted] in 2020 and 2016, respectively.

The Petitioner further contends that SCOPS reached conclusions that were "unsupported by the record" and disregarded evidence. The record includes documentation of the Petitioner's curriculum vitae, academic transcripts, peer-reviewed journal and conference articles, and Google Scholar citation record. The Petitioner also offered evidence of articles that cited to his published work, citation metrics, first-authored and co-authored articles and a co-authored patent, independent advisory opinions, letters of support, and honorable mentions. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

The Petitioner maintains that he possesses the education, skills, and knowledge necessary to advance the proposed endeavor. We acknowledge that the Petitioner holds an advanced degree in a science, technology, engineering, or mathematics (STEM) field which is tied to his proposed work to develop mechanisms to improve prosthetic and orthotic devices. We further recognize the Petitioner's assertion that his work falls within a critical and emerging technology area, and we acknowledge the importance of progress in STEM fields and the role of individuals with advanced STEM degrees. Individuals with advanced STEM degrees particularly those holding a Ph.D., play key role in fostering progress, especially in areas vital to U.S. competitiveness and national security.[3] We therefore agree with the Petitioner that we consider his Ph.D. in a STEM field tied to his proposed endeavor to be an especially positive factor for establishing the second *Dhanasar* prong.

However, a degree in and of itself, is not a basis to determine that a person is well positioned to advance the proposed endeavor. *Id*. When evaluated in the context of the full record, the Petitioner has not shown that he is well positioned to advance his proposed endeavor as contemplated by *Dhanasar*. In addition to education, we look at a variety of factors in determining whether a petitioner is well positioned to advance their proposed endeavor and education is one factor among many that may contribute to such a finding. *Id.* In *Dhanasar*, the petitioner held three advanced degrees, including a Ph.D., tied to his proposed research which had significant implications for U.S. national security and competitiveness. To determine whether the petitioner was well positioned to continue to advance his proposed endeavor, we also favorably considered the significance of his research which had been corroborated by evidence as having peer and government interest; the significance of his role in his research projects; consistent funding from government agencies of his research projects; and his position with a U.S. university where he intended to conduct his proposed research work. *Matter of Dhanasar,* 26 I&N Dec. at 892-93. Here, while we recognize the Petitioner's advanced degree and the general alignment of his academic background with his proposed research, a Ph.D. and a record of publications are not, on their own, sufficient to demonstrate that the Petitioner is particularly well positioned to advance the proposed endeavor.

The Petitioner declares that the citations and applications of his research in the field of mechanical engineering represent some level of interest in the Petitioner's research from relevant parties. He argues that his seven cited publications received enough citations to rank among the top 20% of the most-cited papers in the field of engineering, four reaching the top 10%, and that some of his papers have been published in top journals in his field, including the [redacted] the [redacted] the [redacted]

[3] "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 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, supra*, at F.5(D)(2).

[redacted] and the [redacted]. The Petitioner also submitted data from [redacted] regarding baseline citation rates and percentiles by year of publication for different research fields. However, the documentation from [redacted] cautions that "[c]itation frequency is highly skewed, with many infrequently cited papers and relatively few highly cited papers. Consequently, citation rates should not be interpreted as representing the central tendency of the distribution."

The Petitioner reasons that he "deserves considerable credit for his remarkable record of success thus far." However, the fact a publication bears a high journal ranking or impact factor is reflective of the publication's overall citation rate. It does not, however, show the influence of any particular author or otherwise demonstrate how an individual's research represents a record of success in their field. Moreover, although citation data can suggest peer acknowledgement, the Petitioner did not disclose the number of self-citations or those made by co-authors, which limits the ability to assess the objectivity and the breadth of the impact. Similarly, citation frequency, which may include self-citations, is quantitative in nature and does not reveal the reasons for the citations, which involve a qualitative analysis.

In addition, the Petitioner's citation ranking concerns the larger field of engineering and compares his citation frequency in mechanical engineering to that of the larger field. While mechanical engineering is part of the field of engineering, the Petitioner does not submit sufficient evidence confirming that information extrapolated from the larger field applies equally to each subfield within engineering, including mechanical engineering. While we agree with the Petitioner that the citations, independent advisory opinions, and recommendation letters indicate some degree of interest in his research from his colleagues and peers in the field, this evidence alone is insufficient to demonstrate a level of interest or a record of research success that renders him well positioned. The Petitioner's citation record must be weighed alongside other qualitative indicators of impact and influence. The Petitioner therefore has not demonstrated that the number of citations received by his published journals and articles, in and of themselves, reflect a record of success in similar efforts to meet *Dhanasar's* second prong.

Further, 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. 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." *Dhanasar,* 26 I&N Dec. at 893.

The record includes independent advisory opinions, recommendation letters, and testimonial statements that commend the Petitioner's research projects and his contributions to the field. For instance, some authors note that they have applied the Petitioner's research in their own investigations, incorporated key insights from the Petitioner's findings, or suggest that the Petitioner has "significantly advanced the field of automative crash safety." The Petitioner also asserts that his research has been referenced and utilized by researchers around the world to "further their own investigations in the field." However, while these letters are supportive in tone and positive factors, they generally lack specific and concrete examples demonstrating how the Petitioner's work has been adopted, applied in practical settings, or changed the course of other research efforts. The authors also

do not provide sufficient evidence that the Petitioner's research has been widely accepted or used within the mechanical engineering community or the healthcare field beyond having been cited by others in their published works. It is therefore unclear how the Petitioner's research will advance "healthcare solutions through mechanical engineering techniques" and will set standard in medical technology as claimed.

While the Petitioner indicated an interest in pursuing his research as an assistant professor at the University [redacted] or similar employer, the Petitioner did not provide evidence of an employer offer from the University [redacted] nor evidence of funding for or availability of such a position. The fact that the Petitioner does not currently have such a position weighs against demonstrating either a specific model or plan for future activities or progress toward achieving the endeavor. The Petitioner seeks a national interest waiver of the job offer requirement. Therefore, an offer of employment is not a requirement for approval, nor do we consider the lack of a job offer a negative factor in analyzing the evidence, depending upon the specific circumstances of the case.

However, in this instance, the Petitioner's own stated intention for advancing his endeavor requires an offer of employment, and he has not provided documentary evidence of pursuing this employment or any specific steps taken toward achieving employment. By contrast, the petitioner in *Matter of Dhanasar* was already employed as a postdoctoral research associate at a university, was performing research and development related to his proposed endeavor at this university and intended to continue to do so. *Id.* at 891. While a job offer or the existence of funding is not specifically required, we are not precluded from considering the lack of such evidence as a factor in this analysis, particularly given that funding is critical to the Petitioner's research-based endeavor. *Id.* at 890. Also, in cases such as this one, where the Petitioner does not intend to be self-employed, a job offer or communications with prospective employers, while not required, may be relevant to demonstrate the circumstances or capacity in which the person intends to carry out the endeavor and the feasibility of that plan.[4]

Moreover, we do not consider the fact that the Petitioner's prior published works have continued to accumulate citations to be evidence of the Petitioner's own progress toward achieving his endeavor. Without proposed employment in the United States, a statement of interest or support from a university or research institution, evidence of potential funding for such a position, or other such evidence, the Petitioner has not demonstrated that he currently has the ability to pursue his proposed endeavor.

The Petitioner asserts that he has received funding from the National Natural Science Foundation of China in support of his prior work. However, the evidence indicates that the Petitioner was not the primary award recipient or principal investigator. Furthermore, the record lacks sufficient detail regarding the Petitioner's special role or responsibilities in securing these funds. While the record shows that the Petitioner participated in projects that received funding, without clear documentation of his contributions to the funding process, it cannot be concluded that these awards are indicative of his individual merit or his capacity to independently advance significant research endeavors. By contrast, in *Dhanasar*, we noted that the petitioner had received "consistent" government funding of research projects in which he played a "significant" role, specifically that he initiated or was the primary award contact on several funded grant proposals and was the only listed researcher on many of the grants. *Id.* at 893, Fn. 11. Here, although the Petitioner's involvement in funded researches is

[4] *See generally* 6 *USCIS Policy Manual*, *supra*, at 5.F.(D)(1).

favorable, the evidence submitted does not sufficiently demonstrate that the Petitioner is well positioned to independently secure funding or lead the advancement of his proposed endeavor.

The record demonstrates that the Petitioner has conducted, published, and presented research, but he has not shown that this work renders him well positioned to advance his proposed research. While we recognize that research must add information to the pool of knowledge in some way to be accepted for publication, presentation, funding, or academic credit, not every individual who has performed original research will be found to be well positioned to advance their proposed endeavor. Rather, we examine the factors set forth in *Dhanasar* to determine whether, for instance, the individual's progress towards achieving the goals of the proposed research, record of success in similar efforts, or generation of interest among relevant parties supports such a finding. *Id.* at 890. In considering the record in totality, particularly the fact that the Petitioner has not demonstrated the ability to pursue his proposed endeavor in the United States through an offer of employment, a statement of interest, or other potential funding that would allow the Petitioner to pursue his endeavor, we conclude that the Petitioner has not established that he is well positioned to advance the proposed endeavor.

C. Whether on Balance a Waiver is Beneficial

The third prong requires a petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *Matter of Dhanasar*, 26 I&N Dec. 884. However, as the Petitioner has not established that he meets the second prong of the *Dhanasar* framework, the Petitioner has not shown that he is eligible for and otherwise merits a national interest waiver, and we therefore reserve the Petitioner's arguments with respect to this issue. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also 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 second prong of the *Dhanasar* analytical framework, we find that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.