U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39029272

Date: JUN 26, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an agricultural and food scientist 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 conduct research on developing "climate-resilient farming systems to enhance food security, increase agricultural output, and safeguard public health." 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 explains that her research "seeks to advance sustainable agriculture through research-driven solutions that address water scarcity, soil health, and climate resilience, with a focus on drought-impacted regions in the U.S." In particular, her research will "examine the toxicological risks associated with hazardous metals, such as lead, nickel, and cobalt, in soils irrigated with wastewater, providing science-backed strategies for soil monitoring and remediation." 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 she did not establish that she 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

[2] The Petitioner earned a Master of Education from [redacted] in 2019; a Master of Philosophy in Botany from the [redacted] in 2012; and a Master of Science in Botany from [redacted] in 2008.

that SCOPS applied heightened evidentiary standards. The Petitioner also argues that SCOPS' decision failed to give adequate weight to the prospective impact of her endeavor, failed to properly consider expert letters of support, and minimized her citation record and peer-reviewed publications. The Petitioner further asserts that SCOPS did not fully assess the urgency and importance of her proposed research endeavor; instead, SCOPS improperly required "proof of already-realized influence" rather than evaluating whether the Petitioner had demonstrated that she is more likely than not to make future contributions of national importance. The record includes documentation of the Petitioner's curriculum vitae, academic transcripts, and peer-reviewed journal articles. The Petitioner also offered evidence of articles that cited to her published work, Google Scholar citation record, letters of support, and industry reports and articles. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

For the following reasons, we adopt and affirm SCOPS' analysis and decision regarding the second prong of *Dhanasar,* whether the Petitioner is well positioned to advance the endeavor. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

The Petitioner declares that she is "exceptionally well-positioned to advance her proposed endeavor, given her extensive expertise and proven proficiency in environmental chemistry, agricultural sustainability, and heavy metal contamination mitigation—fields critical to addressing pressing U.S. challenges in food security, water management, and climate resilience." We acknowledge that the Petitioner holds an advanced degree in a science, technology, engineering, or mathematics (STEM) field which is tied to her proposed endeavor to research environmental toxicology and develop climate-resilient farming systems and advance sustainable agriculture. We further recognize the Petitioner's assertion that her 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. We therefore agree with the Petitioner that we consider her master's degrees in a STEM field tied to her 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. *See generally 6 USCIS Policy Manual* at F.5(D)(2), https://www.uscis.gov/policymanual. When evaluated in the context of the full record, the Petitioner has not shown that she is well positioned to advance her 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. *Matter of Dhanasar,* 26 I&N Dec. at 890. 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. *Id.* at 892-93. Here, while we recognize the Petitioner's advanced degrees and the general alignment of her academic background with her proposed research, master's degrees 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.

Moreover, we disagree with the Petitioner's contention that SCOPS used a heightened evidentiary standard by assessing her influence in her field in determining whether she is well positioned to advance her proposed endeavor. While we agree that *Dhanasar* did not specifically mandate a showing of influence as a factor to consider whether a petitioner is well positioned to advance her proposed endeavor, the decision also did not limit the factors we may consider. *See id.* at 890 (identifying factors we consider under the second prong as "including, but not limited to"). In fact, in finding that the petitioner in *Dhanasar* was well positioned, we relied on, in part, "the significance of the petitioner's research in his field" as corroborated by evidence of peer and government interest in his research and consistent government funding on his research projects. *Id.* at 893.

Moreover, SCOPS' assessment of the evidence under *Dhanasar's* second prong is also consistent with USCIS policy guidance, which identifies evidence of whether the person's work has influenced the field of endeavor as relevant evidence that may demonstrate a petitioner is well positioned to advance her proposed endeavor. *See generally* 6 *USCIS Policy Manual, supra*, at F.5(D)(1) (providing, as guidance, many examples of evidence that may demonstrate a person is well positioned to advance their proposed endeavor). SCOPS identified the relevant evidence submitted, including in response to the request for evidence, and sufficiently analyzed the overall record under the applicable preponderance of the evidence standard to conclude that the Petitioner is not well positioned to advance her proposed endeavor.

The Petitioner emphasizes her citation records, noting that she has published 23 peer-reviewed articles that have collectively accumulated over 150 citations. She maintains that her citation record is evidence of her influence in the scientific community and a strong indicator of her capacity to advance her proposed endeavor. She also emphasizes the expert support letters, which describe the significance of her research, past achievements, and significant contributions to the field of botany. However, 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. While we agree with the Petitioner that the citations and recommendation letters indicate some degree of interest in her research from her 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 her 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 her 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.

With respect to the Petitioner's letters of support, while these letters are supportive in tone and positive factors, they do not offer sufficient, detailed, and concrete examples of how the Petitioner's research 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 farming, agriculture, and botany fields beyond having been cited by others in their published works. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

At the time of filing, the Petitioner was employed as a science teacher at [redacted] in Arizona. The Petitioner submitted an employment letter that confirms that she will be working on a full-time basis. She states that her role will enable her to directly engage with interested parties and that she will pursue agricultural research laboratories and grant-based research projects in order to advance her endeavor. However, the Petitioner has not provided sufficient documentation detailing how she plans to carry out her proposed research activities. For instance, the Petitioner has not provided evidence of progress towards achieving the specific goals of her proposed endeavor, research plan, timeline, funding information, or evidence of institutional or organizational support for the continuation of her research endeavor. Nor has she shown that there is continued interest in her future research projects. It is also unclear how much time the Petitioner plans to devote towards research versus her responsibilities as a science teacher. The Petitioner, therefore, has not sufficiently explained how she is well positioned to advance her research endeavor.

The record demonstrates that the Petitioner has conducted and published research, but she has not shown that this work renders her well positioned to advance her 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. *Dhanasar,* 26 I&N Dec. at 890. Based on our de novo review, the record is insufficient to demonstrate that the Petitioner is well positioned to advance her proposed endeavor. In considering the record in totality, we, therefore, conclude that the Petitioner has not established that she 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 she meets the second prong of the *Dhanasar* framework, the Petitioner has not shown that she 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 conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.