U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41368002

Date: MAR. 5, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a software engineer and systems researcher,[1] 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 although the Petitioner possessed an advanced degree, he did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. *See* Section 203(b)(2)(A)-(B) of the Act; *Matter of Dhanasar*, 26 I&N Dec. 884, 889-91 (AAO 2016). 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 that he or she is 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, he or she must then demonstrate that he or she merits 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, 889-91 (AAO

[1] Page 1 of the Petitioner's appellate brief states that he "is an accomplished software engineer and systems researcher whose proposed endeavor focuses on algorithmic optimization and automation technologies with direct application to national infrastructure efficiency and several transportation and space fields . . . ."

2016), provides the analytical framework for adjudicating national interest waiver petitions. *Matter of 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

SCOPS found that the Petitioner qualifies as an advanced degree professional.[3] The sole issue to be determined is whether he has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. *See* Section 203(b)(2)(B) of the Act; *Matter of Dhanasar*, 26 I&N Dec. at 889-91.

In support of his petition, the Petitioner submitted an April 2025 statement, pages 6-7, 10, 32 and 43 of the statement indicate that he intends to be "a self-employed developer" for "a lean cost model . . . software enterprise" that aims to "create a novel vehicle-to-vehicle communication software specifically designed for autonomous vehicles." He claimed that he will operate his software enterprise with a "focus on developing a system for optimizing traffic flow by eliminating traditional traffic signals and enabling vehicle-to-vehicle (V2V) and vehicle-to-infrastructure (V2I) communication." A diagram entitled [redacted]' claims that his proposed endeavor's impact will include "reduced congestion and delays," "lower fuel consumption and emissions," and "improved traffic management efficiency."

According to the business plan, the Petitioner's software enterprise "will offer a [redacted] communication software designed for autonomous driving networks in urban environments." The business plan includes the "initial 5-year plan," claiming that in year 1, the company will be involved in "core software development and simulation testing"; in year 2, it will be involved in "small-scale pilot at a closed testbed or smart city pilot program; in year 3, it will start "initial deployment with one auto OEM [original equipment manufacturer] or city"; and it will be scaling to multiple cities/OEMs in years 4 and 5. The business plan also claims that the company's "initial operations will receive internal investment, with an owner's [the Petitioner's] capital investment of $100,000 in the first year" and its "[a]nticipated gross margins stand at 75% in year one, with a return on assets projected at 168% by year five due to the non-capital-intensive nature of the business."

---

[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] The Petitioner received a bachelor's degree in electrical and electronics engineering from [redacted] in India in 2017. He then received a master of engineering degree from the [redacted] in 2019. *See* 8 C.F.R. § 204.5(k)(2).

As discussed below, we conclude that the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Matter of Dhanasar*. Specifically, he has not satisfied the second *Matter of Dhanasar* prong of showing that he is well positioned to advance his proposed endeavor. *Id.*, 26 I&N Dec. at 890.

A. Substantial Merit and National Importance of the Proposed Endeavor

The first *Matter of Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.*, 26 I&N Dec. at 889. We agree with SCOPS' determination that the Petitioner's proposed endeavor has substantial merit. We will not reach a decision on whether the proposed endeavor has national importance. Instead, we will dismiss the appeal based on the finding that he has not satisfied the second *Matter of Dhanasar* prong. *Id.*, 26 I&N Dec. at 890.

B. Well Positioned to Advance the Proposed Endeavor

The second prong of *Matter of Dhanasar* shifts the focus from the proposed endeavor to the individual. *Id.*, 26 I&N Dec. at 890. To determine whether the Petitioner is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: his 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.* While the Petitioner need not demonstrate that his proposed endeavor is more likely than not to ultimately succeed, he does need to submit sufficient evidence establishing, "by a preponderance of the evidence, that [he is] well positioned to advance the proposed endeavor." *Id.* For the reasons explained below, we conclude that he has not met *Matter of Dhanasar*'s second prong.

The record confirms that the Petitioner has a bachelor's degree in electrical and electronics engineering, a master's degree in engineering, and had received a $15,000 merit-based scholarship from the [redacted]. He worked for [redacted], and [redacted] as a software engineer, and [redacted] as an application engineer. According to his 2025 scholarly article, he also worked for [redacted] as a senior software engineer. In addition to these positions, USCIS records show that the Petitioner is a beneficiary of a Form I-129H1B petition, which indicates that he is now working for [redacted] as a distributed systems engineer, with an intended employment period between July 2025 and July 2028. The record, however, lacks evidence showing that he has academic or professional experience in establishing or operating a software business or any business, which he claims is part of his proposed endeavor.

The Petitioner offers evidence showing that the [redacted] published his scholarly article, [redacted] in 2025; he is a senior member of the Institute of Electrical and Electronics Engineers (IEEE); he applied for a utility patent, with an invention titled [redacted]

[4] According to a document from the Science and Information Organization [redacted] had an acceptance rate of 15% and 173,102 downloads in 2024, and an impact factor of 0.7 and a "CiteScore" of 2.3 in 2023.

[redacted]; and he served as a judge for the 2025 [redacted] reviewing and evaluating "original work of peers and professionals across several complex categories of AI innovation." As discussed in SCOPS decision, the record does not demonstrate the significance of the Petitioner's published work, because it lacks evidence confirming citations to his article, or reliance or adaptation of his research by others. Additionally, the Petitioner's authorship, membership and judging experience does not confirm that he is qualified to establish or operate a software business or any business.

The Petitioner presents an economic impact report, claiming that his proposed endeavor "can result in substantial national economic savings within a relatively short timeframe" and its "outcomes [will include] measurable reductions in traffic delays, crash-related costs, fuel consumption, and CO2 emissions, as well as improvements in airline ground efficiency." He also indicates that he has shared his proposed endeavor with others and received positive reception. The record includes his correspondence with the National Aeronautics and Space Administration (NASA), indicating that in June 2025, he made an online presentation entitled [redacted]' to NASA's "multi-modal transportation and AI/ML staff in the Aviation Systems Division" at the NASA [redacted] In a July 2025 email, the acting chief of the Flight Trajectory Dynamics & Controls Branch, NASA [redacted], thanked him for the presenting his work "on using 6G and AI technologies to enable autonomous traffic and signal-free ground operations," which has "provid[ed] empirical evidence . . . [and grew] the overall body of knowledge in this domain." The materials on the Petitioner's interaction with NASA, at most, confirm that his proposed endeavor has research value, but does not support the finding that the NASA Ames Research Center is interested in working with the Petitioner on his proposed endeavor or that the interaction qualifies as evidence of "progress towards achieving the proposed endeavor." *Matter of Dhanasar*, 26 I&N Dec. at 892-93 (noting that the petitioner in that case "submitted detailed expert letters describing U.S. Government interest and investment in his research, and the record includes documentation that the petitioner played a significant role in projects funded by grants from the National Aeronautics and Space Administration ('NASA') and the Air Force Research Laboratories ('AFRL') within DOD [U.S. Department of Defense]").

The record also includes materials that discuss the potential of the Petitioner's proposed endeavor. The Petitioner claims on page 4 of the business plan, that the letters of support show that his proposed endeavor "has garnered interest from U.S. entities." In an April 2025 letter, the chief real estate officer of [redacted] "express[ed] preliminary, non-binding interest in [the Petitioner's] proposed [redacted] communication initiative aimed at eliminating traditional traffic signals." The letter specifies that while the chief real estate officer "acknowledge[s] the innovative nature of [the] proposal," "no formal commitments are being made at this stage." The letter includes a list of "Next Steps (Subject to internal Review)" – a meeting among relevant individuals, mutual information exchange, and identification of a phased roadmap for collaboration – to move the proposal forward. In a subsequent letter, dated August 2025, the chief real estate officer discussed the Petitioner's academic, research and professional experience as well as provided details on the potential applicability of his proposed endeavor. But the letter makes no mention of any attempts by either party to take any specified "Next Steps" listed in the earlier letter to move the project forward. Additionally, the August 2025 letter, similarly to the April 2025 letter, specifies that "this letter does not constitute a formal commitment of Port resources."

The Petitioner has presented other letters of support, including those from individuals who work for [redacted]. All the letters follow a similar format, including the same headings, and contain identical or similar language. The authors of these letters all expressed their "preliminary interest in [the Petitioner's] proposed endeavor," and shared their intent to collaborate with him, but all of them emphasized that the letters did not constitute a formal commitment or binding agreement. The letters all list various next steps, including additional meetings and development of a roadmap for the project, but the record lacks evidence confirming that any of these individuals or entities have taken the next steps. These letters of support do not support the finding that the Petitioner has made "any progress towards achieving the proposed endeavor." *Matter of Dhanasar*, 26 I&N Dec. at 890.

Additionally, the Petitioner offers letters of support from individuals who have worked with him, alleging he is well positioned to advance the proposed endeavor. For example, according to an April 2025 letter from [redacted] – Autonomous Vehicles," between 2018 and 2019, when the Petitioner was a graduate student, he was involved in "a high-impact project at [redacted]" which was "a major autonomous driving initiative," and that he "played a pivotal role in this project's success." A professor from University of [redacted], similarly stated in an August 2025 letter that the Petitioner, while he was a graduate student, worked on a project involving [redacted] autonomous vehicle research initiative, and that his activities after graduate studies have "demonstrate[d] sustained application of management, financial, and market expertise beyond the academic setting."

The Petitioner also provides other letters of support. A software engineer at [redacted], stated in a March 2025 letter that the Petitioner was his mentor and praised the Petitioner's "level of technical depth, leadership acumen, and consistent impact." A senior engineering manager at [redacted]. submitted an April 2025 letter, in which he stated that "[a]cross all . . . projects, [the Petitioner] demonstrated an ability to identify critical gaps, architect sustainable systems, and deliver features that made a real business impact." Additional letters of support in the record include a July 2025 letter from a lecturer in computer science at [redacted] and a July 2025 letter from a staff firmware engineer at [redacted], discussing the Petitioner's academic records, professional experience, his published article, his IEEE senior member status, and his reviewing of other researchers' work.

While the evidence in the record confirms the Petitioner's status as an experienced engineer who was involved in an autonomous vehicle project while in graduate school, and who has subsequently authored a scholarly paper on the topic, it is not sufficient to demonstrate he is well positioned for the proposed endeavor. Specifically, the record lacks evidence of "progress towards achieving the proposed endeavor" or sufficient level of "interest of potential customers, users, investors, or other relevant entities or individuals." *Matter of Dhanasar*, 26 I&N Dec. at 890. Although the letters of support indicate that individuals have expressed "preliminary interest," the record lacks evidence of investment of funds or steps taken by these individuals or associated entities after voicing their initial positive reception of the Petitioner's proposed endeavor. Instead, the letters specifically state that there is no formal commitment to his proposed endeavor. Similarly, while the Petitioner has shared his research in a published article, the record does not indicate that his research has been relied upon or utilized by any individuals or entities, which does not support the finding that relevant individuals or entities are interested in his proposed endeavor.

Moreover, while the Petitioner claims that his proposed endeavor will include his operation and management of his own software enterprise, the record lacks evidence that he has formed such a business or taken steps to form such a business. Similarly, as SCOPS observed in the denial decision, "[t]he record does not include that the Petitioner is prepared to open or operate a business in the United States" and "[t]here is no documentation in the record indicating that the Petitioner has ever owned or established a business, or successfully operated a business resembling the proposed endeavor." Additionally, the business plan lists the company's "initial 5-year plan," but the record does not confirm that the Petitioner has reached any of the specified milestones, including "core software development and simulation testing" or "small-scale pilot at a closed testbed or smart city pilot program."

Furthermore, the Petitioner is currently a distributed systems engineer for [redacted]. According to a July 2025 letter from [redacted], the Petitioner is "not [permitted to] perform services at a third-party worksite" and [redacted], "will have the right of control over [his] work and work product." This does not support the finding that the Petitioner could make any progress towards achieving his proposed endeavor of owning and operating a software enterprise while employed by [redacted].

The record demonstrates that the Petitioner completed autonomous vehicle research while he was a graduate student, and published his research on the topic in 2025, but he has not shown that this work renders him well positioned to advance his proposed endeavor. 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 his or her proposed endeavor. Rather, we examine the factors set forth in *Matter of Dhanasar* to determine whether, for instance, the individual's progress towards achieving the goals of the proposed endeavor, record of success in similar efforts, or generation of sufficient level of interest among relevant parties supports such a finding. *Id.*, 26 I&N Dec. at 890. The Petitioner, however, has not sufficiently demonstrated that his work constitutes a record of success or progress in establishing and operating his software enterprise rendering him well positioned to advance his proposed endeavor. As the Petitioner has not demonstrated that he is well positioned to advance his proposed endeavor, he has not established that he satisfies the second prong of the *Matter of Dhanasar* analytical framework.

C. Whether on Balance a Waiver is Beneficial to the United States

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. at 890-91. Considering our discussion above regarding prong two under *Matter of Dhanasar*, we will not reach a decision on whether the Petitioner satisfies prong three. Instead, we will dismiss the appeal based on the finding that the Petitioner has not satisfied the second *Matter of Dhanasar* prong. *Id.*, 26 I&N Dec. at 890.

III. CONCLUSION

As the Petitioner has not met the requisite second prong of the *Matter of Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.[5]

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.

[5] We reserve any other eligibility issues, including prongs one and three under the *Matter of Dhanasar* analytical framework, that are not discussed in this decision for future consideration if the need arises. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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).