U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41496462

Date: MAR. 21, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a microelectronics 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 EB-2 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 the labor certification, would be in the national interest. The matter is now before us on appeal. 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;

[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).

- 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 concluded that the Petitioner qualifies as a professional holding an advanced degree. The record supports that conclusion; the Petitioner has a master's degree in electrical and computer engineering from the University of Illinois.

The remaining issue to be determined on appeal is whether the Petitioner 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 will withdraw SCOPS' determination that the Petitioner did not demonstrate the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework. We will also withdraw SCOPS' conclusion that the Petitioner sufficiently demonstrated the he is well positioned to advance his proposed endeavor under the second prong of the *Dhanasar* analytical framework. Concerning whether, on balance, a waiver would be beneficial to the United States, we agree with SCOPS' conclusion that it would not be beneficial to waive the requirements of a job offer and, thus, of a labor certification.

A. Substantial Merit and National Importance of the Proposed Endeavor

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 relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* In *Matter of Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. If the evidence of record demonstrates that an individual's proposed endeavor has the significant potential to, for example, contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance.[2] Regarding an endeavor in the fields of science, technology, engineering, or math—also known as STEM—importance may be found in its contribution to U.S. competitiveness or security in a variety of circumstances, such as when it will help the United States remain ahead of strategic competitors or current and potential adversaries.[3]

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[2] *See generally* 6 *USCIS Policy Manual* at F.5(D)(3), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5.
[3] *See generally* 6 *USCIS Policy Manual, supra*, at F.5(D)(4).

SCOPS determined that, while the Petitioner's proposed endeavor has substantial merit, the record did not establish the national importance of his endeavor. On appeal, the Petitioner reiterates previous assertions concerning his eligibility under *Dhanasar's* first prong, stating that SCOPS did not appropriately analyze the evidence of the potential future impact of his work, inappropriately treated specific evidentiary factors as mandatory, and conflated certain eligibility requirements with the criteria of a different visa category.

The Petitioner's proposed endeavor relates to the enhancement of error control in communication links within data centers and the improvement of AI data storage and movement. He intends to continue his research developing state-of-the-art signal processing algorithms and microchips to enhance high-speed low-power communication systems that process artificial intelligence [AI] computational workloads. He states that his research will address challenges in the implementation of AI workloads, such as inadequate computational resources that are unable to support AI's sophisticated algorithms and data processing demands. The Petitioner states that a lack of accessible and sufficient power is a challenge that hinders AI innovation and processes, but he asserts that his innovations will mitigate that obstacle by achieving energy efficiency while maintaining system performance. Because the Petitioner's endeavor involves continued research toward addressing the hardware needs of data centers to allow for advancing the capabilities of AI, he has demonstrated the substantial merit of his proposed endeavor.

Concerning our evaluation of whether a proposed endeavor has national importance, we consider its potential prospective impact. *Id.* The Petitioner presented information about types of AI workloads, global AI development rankings, hardware innovation for AI, and the rising demand for electricity in the United States. This documentation is supplemented by letters of support from individuals who work in the field explaining that energy consumption required for deploying AI creates a sizable impediment to its technological development in the United States. The Petitioner submitted documentation of his research as evidence of his work towards addressing this challenge, including several first-authored and peer-reviewed articles, stating that his research has been supported by programs funded by the United States' Defense Advanced Research Projects Agency (DARPA), a federal research and development agency, and the Semiconductor Research Corporation (SRC), a technology-based consortium that fosters interdisciplinary research programs.

A letter from a senior member of [redacted] explains how the Petitioner's research developments can allow AI models to produce faster outputs with greater accuracy, and his work on curbing data transfer errors will allow data centers to avoid prolonged costly downtimes. According to a letter of support from his Ph.D. supervisor, the Petitioner has designed a microchip that has significantly advanced analog in-memory computing for highly efficient artificial intelligence processing. He also developed decoders for specific silicon chips that achieved faster data transmission speeds by relaxing signal-to-noise requirements—research that has been published by the premier professional society of semiconductor professionals worldwide. This and additional letters of support detail how the Petitioner's work addresses AI's computational demands "for new network topologies, specialized hardware for computing and storage, and energy-efficient communication links"—research that supports low-cost AI training.

We withdraw SCOPS' conclusion concerning the national importance of the Petitioner's proposed endeavor. His research contributes to advancing the development of AI capabilities and U.S. competitiveness in a valuable technological field. The Petitioner has established, by a preponderance of the evidence, that he has met the first prong of the *Dhanasar* framework.

B. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the individual. To determine whether an individual is 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* at 890.

The evidence shows that the Petitioner has earned a master's degree in electrical and computer engineering from the [redacted], and the record includes his curriculum vitae, academic records, published and presented work, and documentation of articles that cite to his research findings.

In consideration with other evidence to assess an individual's qualifications under the second prong, we consider 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 an especially positive factor.[4] We note, however, that the Petitioner was working towards his doctoral degree when he filed the petition, and he has not otherwise shown that his academic accomplishments alone are sufficient to demonstrate that he is well positioned to advance his proposed endeavor. In *Matter of Dhanasar*, the record established that the petitioner held multiple graduate degrees, including two master of science degrees and a Ph.D. *Id.* at 891. We look to a variety of factors in determining whether an individual is well positioned to advance a proposed endeavor, and education is only one factor among many that may contribute to that determination.

As evidence of the Petitioner's influence in the field, he submitted three research papers that cite his work, which he referred to as "notable citations." These papers, however, are not accompanied by evidence explaining the significance of the citations, and the record does not otherwise contain evidence of the utilization of research related to the Petitioner's findings beyond the use of those findings by other researchers to support their own work.

In addition, we note that while the Petitioner has highlighted the fact that his research has resulted in six peer-reviewed articles and has been cited a total of 32 times—including one paper ranking among the top ten percent most-cited articles in their respective years of publication—he has not provided comparative citation data for researchers in his field or other relevant evidence to support his claims that his "citation history clearly demonstrates the major impact of his original contributions in the field of microelectronics engineering . . . ."

Regarding the Petitioner's model or plan for future activities and any progress toward achieving the proposed endeavor, we also similarly conclude that the evidence in the record does not demonstrate that

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

the Petitioner is well positioned to advance the endeavor. The Petitioner has described his intention to continue his research and to "pursue a position as a hardware researcher at IBM Research or a similar employer," and he has emphasized that he will be able to continue his endeavor regardless of his employer because he will work in a position with duties aligned with his endeavor. The Petitioner provided a personal statement with detailed descriptions of technical elements involved in his research, but his plans for advancing the endeavor are limited to continuing the research itself. He has not addressed potentially relevant logistical considerations, such as sources of funding necessary for the endeavor or an anticipated timeline in which the endeavor might be achieved. The record does not contain evidence of interest from entities relevant to transitioning his research from its theoretical applications to its actual utilization by data centers. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Not every individual who has conducted original research and published findings will be found to be well positioned to advance a 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. The Petitioner's knowledge, skills, and record of success in related efforts, as demonstrated by his education, publication history, and citation record, 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. The record does not demonstrate a history of success in related or similar efforts or provide a sufficiently comprehensive model or plan for how he will carry out his endeavor.

In considering the record in totality, we conclude that the Petitioner has not established that he is well positioned to advance the proposed endeavor. Accordingly, the Petitioner has not demonstrated that he satisfies the second prong of the *Dhanasar* framework.

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. at 890-91. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. *Id.* In each case, the factor(s) considered must, taken together, establish 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. *Id.* at 891.

As stated above, USCIS recognizes the importance of progress in STEM fields and the essential role that individuals with advanced STEM degrees have in fostering such progress.[5] Accordingly, positive factors to consider when assessing the third *Dhanasar* prong include possession of an advanced STEM

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

degree, particularly a Ph.D.; engagement in work furthering a critical and emerging technology; and being well positioned to advance the proposed STEM endeavor of national importance. Here, the Petitioner has an advanced STEM degree in the form of a master's degree and intends to work in a STEM field. He has not demonstrated, however, that he is well positioned to advance his proposed endeavor. Although the Petitioner's master's degree and published research indicate that he has knowledge in a narrow STEM area, that evidence is not a sufficient basis to show that a person is well positioned to advance a proposed endeavor. In addition to his education and six published articles, evidence of his experience in his field is limited to three letters of support that describe his pursuit of a very specific area of research while earning his master's and doctoral degrees. The record, however, does not include evidence of a pathway for his research to progress from theoretical to practical, real-world applications.

While we acknowledge that there may be obstacles in obtaining a labor certification, per our analysis above, the Petitioner has not demonstrated that he is well positioned to advance his proposed endeavor under the second *Dhanasar* prong. As to whether a national interest waiver is justified even given the presence of qualified workers in his field in the United States, the Petitioner has not established that his skills, training, and experience in the field of microelectronics are of such value that, on balance, they outweigh the national interest in protecting the national workforce. Unlike the petitioner in *Dhanasar*, here, the Petitioner has not demonstrated sufficient progress toward achieving the proposed endeavor, nor has he provided evidence that his work has received funding or interest from entities that could have a role in furthering or actualizing his endeavor. Other factors we may consider in our third-prong assessment include whether the record demonstrates that it would be impractical for the individual to obtain a labor certification, whether the national interest in the person's contributions is sufficiently urgent to warrant forgoing the certification process, and whether the endeavor has the potential to create jobs or to generate considerable economic impacts. The Petitioner has not addressed these factors.

In addition, our precedent decision states that in order to establish eligibility for a national interest waiver, a petitioner must go beyond showing expertise "significantly above that ordinarily encountered" in their field. *Matter of Dhanasar*, 26 I&N Dec. at 886, n. 3. Here, the Petitioner has not shown that at this point in his career he has achieved that level of expertise. We therefore conclude that, taken together, these factors do not establish 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.

For these reasons, the Petitioner has not established eligibility under the third prong of the *Dhanasar* analytical framework.

III. CONCLUSION

The Petitioner has not demonstrated that he is well positioned to advance the proposed endeavor or 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. As the Petitioner has not met the requisite second and third prongs of the *Dhanasar* analytical framework, he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

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.