U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41977263

Date: MAR. 30, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an industrial 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, concluding that the record did not establish that a waiver of the job offer requirement is 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.

Matter of Dhanasar, 26 I&N Dec. at 889

II. ANALYSIS

SCOPS determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. Based on the evidence in the record that the Petitioner has obtained a master of science degree in industrial engineering, we agree. The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest under the analytical framework set forth in *Matter of Dhanasar*.

Regarding the Petitioner's eligibility for a national interest waiver, SCOPS determined that the Petitioner demonstrated both the substantial merit and the national importance of his proposed endeavor, and therefore that he met the first *Dhanasar* prong. However, SCOPS found that the Petitioner did not establish that he is well-positioned to advance the proposed endeavor, or that, on balance, a waiver of the job offer requirement would benefit the United States. Based on our de novo review of the record, we agree with SCOPS that the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Matter of Dhanasar*. Specifically, we agree that the Petitioner has not sufficiently demonstrated that he is well-positioned to advance the proposed endeavor as required by the second *Dhanasar* prong, and we will dismiss the appeal on that basis.

The Petitioner's proposed endeavor is to develop new and improve existing manufacturing processes that use recycled materials, particularly composites, and ensure these processes are flexible and capable of manufacturing both mass-produced and custom products. The Petitioner is currently employed as an engineering manager at [redacted] a U.S.-based manufacturer of outdoor structures and building materials. The Petitioner claims that his "advances in manufacturing technology for products made from recycled composites and custom-made products will greatly impact the manufacturing industry and allow companies to bring their factories back to the United States." In response to SCOPS' request for evidence (RFE), the Petitioner clarified that he intends to "lead structural analysis and architectural fabrication efforts focused on advancing manufacturing processes that utilize recycled materials and composites." The Petitioner stated that by advancing his endeavor, he will "enable safe, sustainable architectural solutions while driving industry-wide improvements in material selection and design practices."

While the first prong of the *Dhanasar* framework focuses on the specific endeavor, the second prong shifts the focus from the proposed endeavor to the individual and whether they are well-positioned to advance it. *Id.* at 890. In determining whether a petitioner is well-positioned to advance their proposed endeavor, we consider factors including but not limited to: the individual's 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.*

On appeal, the Petitioner asserts that SCOPS made erroneous statements of fact and that the decision is contrary to the evidence in the record. For example, the Petitioner objects to SCOPS finding that the evidence does not show that his work has been utilized in the field or influential beyond what is normally encountered in the field, and objects to SCOPS finding that he did not submit evidence of patents, trademarks, copyrights, or of any published articles or media reports featuring his achievements or his current work. The Petitioner contends that these findings are contrary to the record because he submitted evidence that his manufacturing processes are "the basis for the leading wood-alternative composite decking company's decision to license [the Petitioner's] company," that HGTV has "utilized his designs and manufacturing processes" for their [redacted] sweepstakes since 2019, and that HGTV has "promoted [the Petitioner's] work over the last six years." Finally, the Petitioner claims on appeal that SCOPS failed to consider the support letters submitted by the Petitioner, and that the letters discuss the Petitioner's achievements, recognition, and record of success in the field. However, for the reasons discussed below, we determine that the record supports SCOPS' determination that the evidence is insufficient to demonstrate that the Petitioner is well-positioned to advance the proposed endeavor.

First, we conclude that the evidence in the record is not sufficient to support the Petitioner's claims on appeal regarding his contributions to the HGTV [redacted] sweepstakes nor that his manufacturing processes are the basis for the "licensing" of his employer.

Regarding the HGTV sweepstakes, the Petitioner submitted evidence that his employer, [redacted] has engineered or constructed pergolas and other outdoor structures for HGTV for its building projects in various years since 2020. In a support letter, A.S.,[2] the chief operating officer of [redacted] states that the Petitioner "developed a new manufacturing process using lean philosophy" and that this process "has been used numerous times to build outdoor structures for HGTV [redacted] Another support letter from A.S., submitted in response to the RFE, states that the Petitioner's expertise was essential to the successful completion of a recent HGTV project. The record contains multiple shop drawings in which the named projects relate to HGTV, such as "HGTV 2020," "HGTV 2021 [redacted] "HGTV [redacted] 2021," "HGTV [redacted] 2024," and "HGTV [redacted] 24." The Petitioner also submitted promotional material from HGTV's website about the homes featured in these sweepstakes. Finally, the Petitioner submitted evidence of recent historical rating for [redacted] HGTV.

Although this evidence shows that the Petitioner's employer has contributed to project homes that were presented on HGTV television shows, the record does not substantiate the Petitioner's specific claims. For example, the record does not contain sufficient evidence to establish that any of the Petitioner's claimed manufacturing advancements or processes were the reason that his employer was contracted to perform these services. Although the two support letters from A.S. speak highly of the Petitioner's contributions and describe them as critical to the projects, the record does not contain other documentary evidence to support these claims. The Petitioner's name does not appear to be present in any of the HGTV promotional materials, nor are any of the Petitioner's claimed advancements or technologies featured in these promotional materials. Additionally, the shop drawings submitted by the Petitioner for the specific builds list names including a drafter, checker, and an estimator. The Petitioner is not a named contributor to any of these shop drawings.

[2] We use initials to protect individuals' privacy.

It is not clear from the record, therefore, that HGTV has "promoted" the Petitioner's work for the last six years, as he claims on appeal, nor that HGTV has specifically "utilized his designs and manufacturing processes." The Petitioner is an employee of [redacted] and [redacted] has provided services and builds for HGTV projects; it therefore follows that the Petitioner may have worked on these projects as an employee of the company. But the record is not specific nor sufficiently detailed for us to evaluate the Petitioner's specific contributions to these projects, nor their significance. Therefore, we conclude that the evidence does not support the Petitioner's claims and moreover is not sufficiently reflective of the Petitioner having a record of success in related or similar efforts or that he has made progress toward achieving the proposed endeavor, nor does it demonstrate the interest of potential customers or other relevant entities. *See Matter of Dhanasar*, 26 I&N Dec. at 890.

Additionally, the record does not establish the Petitioner's claim on appeal that his manufacturing processes are "the basis for the leading wood-alternative composite decking company's decision to license [the Petitioner's] company." Here, the Petitioner refers to [redacted] The Petitioner states in his initial filing that [redacted] is [redacted] and claims tha[redacted] is "the licensed manufacturer of [redacted] and [redacted] products."

The record does not clearly define the relationship between [redacted] and [redacted] if there is one. One of the support letters from A.S. refers to [redacted] as "[o]ne of our licensing partners." The record also contains shop drawings in which [redacted] is listed as the customer, including some of the HGTV related projects. However, there is no other documentary evidence in the record, such as a licensing agreement between [redacted] and [redacted] [redacted] that would clarify this business relationship. Moreover, even if there is a licensing agreement or a contractual relationship between the two companies, the evidence in the record does not support the Petitioner's claim that his work product or his manufacturing process advancements were the basis for any agreement. Again, we conclude that this evidence is not sufficiently supportive of the Petitioner's success in related or similar efforts, nor that he has made progress toward achieving his proposed endeavor, nor of the interest of potential customers or relevant entities. *See id.*

In considering the other factors enumerated in *Matter of Dhanasar*, we do conclude that the Petitioner's education, skills, and knowledge are positive factors in supporting his positioning to advance the proposed endeavor. *See id.* The Petitioner submitted evidence that he has obtained a master of science degree in industrial engineering, a field related to his proposed endeavor, and that he has worked as an engineering manager at [redacted] since 2019, where he has developed skills and knowledge related to advancing manufacturing processes for creating products made from recycled materials and composites.

However, the evidence does not demonstrate the Petitioner's record of success in related or similar efforts or his progress toward achieving the proposed endeavor. *Id.* In addition to the HGTV home projects, the Petitioner additionally claims that his record of success in related or similar efforts is demonstrated by his contributions to other various projects with his employer. For example, the Petitioner stated in response to the RFE that he was responsible for designing a pergola for a Home2 Suites by Hilton. The Petitioner states that he was responsible for performing all structural calculations

in compliance with California building codes and that the project needed to meet the U.S. Green Building Council's standards for Leadership in Energy and Environmental Design (LEED) certification. The Petitioner provided a letter of support from A.L., a structural consultant and professional engineer, and shop drawings to demonstrate the Petitioner's contributions to this project.

A.L. states that he is aware of the Petitioner's work based upon this shared Home2 Suites project between [redacted] and A.L.'s employer but that he does not know the Petitioner personally. A.L. describes the pergola project and the specific recycled materials that were used, which he states, "required special engineering considerations, particularly in terms of load paths, joint design, and corrosion resistance factors. . . ." A.L. states that the Petitioner's "deep expertise in both material science and regulatory standards was critical for ensuring compliance and successfully integrating" sustainable materials into the project, and that the Petitioner's work shows his "extensive expertise in advanced structural analysis for non-standard, architecturally integrated elements."

But this evidence is not sufficient to demonstrate that the Petitioner's record of success positions him well to advance the proposed endeavor, or that he has made progress toward achieving the proposed endeavor. The support letter from A.L. speaks highly of the quality of the Petitioner's work as a competent industrial engineer who has done impressive work on their shared project. However, it does not discuss the Petitioner's proposed endeavor nor describe his progress toward achieving it. The letter also does not describe the Petitioner's success in improving manufacturing techniques for composites and other recycled materials, or other similar efforts, and is not otherwise supportive of the Petitioner's claim that he has a record of success in related or similar efforts.

Finally, we conclude that the record does not sufficiently establish the interest of potential customers, users, investors, or other relevant entities or individuals. *See Matter of Dhanasar*, 26 I&N Dec. at 890. Here, the Petitioner contends that his employer is interested in his endeavor and that interest in his work is also demonstrated by his contributions to developing continuing education coursework for professional associations. Regarding the continuing education coursework, the Petitioner provided information from the American Society of Landscape Architects and the American Institute of Architects on continuing education in general and information on some specific courses. However, the course information does not show that the Petitioner developed or led these courses, as claimed. Instead, the course information shows that [redacted] is the course provider and that another individual is the course instructor. The record therefore does not support the Petitioner's claim that these professional associations are interested in the Petitioner's work or in his efforts to pursue his proposed endeavor.

Additionally, we are not persuaded that the Petitioner's employment with [redacted] sufficiently establishes interest from relevant entities in the Petitioner pursuing his proposed endeavor. In *Matter of Dhanasar*, we found that the petitioner demonstrated interest from relevant entities where the record showed that he 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. While we recognize that the Petitioner is not a researcher seeking grant funding, we conclude that the fact that the Petitioner has obtained employment to provide services as an industrial engineer is not reflective of a similar level of interest to that demonstrated in *Matter of Dhanasar*.

Not every individual who has is employed in their field and who has relevant skills and knowledge will be found to be well-positioned to advance their 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. *Matter of Dhanasar*, 26 I&N Dec. at 890. The Petitioner's education, skills, and knowledge are positive factors. However, they are not sufficient to overcome the lack of evidence establishing the Petitioner's record of success in related or similar efforts, his progress toward achieving the endeavor, or interest from potential investors or other relevant entities. In considering the record in totality, we conclude that the Petitioner has not established that he is well-positioned to advance the proposed endeavor.

Because the documentation in the record does not establish that the Petitioner is well-positioned to advance the proposed endeavor as required by the second prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion regarding his eligibility under either the first or the third *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

The Petitioner has not met the requisite second prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established he is eligible 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.