U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40230065

Date: NOV. 19, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a researcher in the field of mechanical engineering, 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 established eligibility for the EB-2 classification as an advanced degree professional, she did not establish that she merits a national interest waiver because she did not demonstrate that: 1) her proposed endeavor has national importance; 2) she is well-positioned to advance her endeavor; and 3) 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 is required under the three-prong analytical framework outlined in *Matter of Dhanasar*, 26 I&N Dec. 884 (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 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. at 889, 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
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The record shows that the Petitioner earned a master's degree in mechanical engineering, thereby qualifying her for the underlying EB-2 visa classification.[2] The remaining issue is whether the Petitioner qualifies for a national interest waiver. For the reasons to be discussed below, we find that the Petitioner has not established that she is well-positioned to advance her proposed endeavor as required under the second prong of the *Dhanasar* analytical framework.

Unlike the first prong, substantial merit and national importance, which focuses on the specific endeavor that the individual proposes to undertake, the second prong shifts the focus to the individual. *Id.* at 890. 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.*

As stated earlier, the Petitioner is currently a graduate research assistant and doctoral candidate. She seeks to use her research to "enhance waste heat integration in district heating systems to boost building energy efficiency and reduce greenhouse gas emissions in the United States." In pursuing her endeavor, the Petitioner states that she plans to collaborate with: 1) designers of building energy modeling software; 2) energy modelers and systems managers of steam-based district heating systems; and 3) energy educators to build training programs for student researchers and energy modelers.

The record includes the Petitioner's curriculum vitae, academic records, letters of recommendation, several publications and related citation records, evidence of the Petitioner's membership in professional associations, and evidence that the Petitioner has attended conferences where she presented a peer-reviewed paper and shared her ideas on sustainable and efficient energy sources as a panelist. The Petitioner claims that her education, research, work experience, and recognition in her field establish that she is well-positioned to advance her endeavor. We disagree.

We acknowledge the Petitioner's education, including her master's degree and doctoral candidacy in mechanical engineering. Although the Petitioner's advanced degree in a STEM field is an especially positive factor, it is not a sufficient basis to determine that she is well positioned to advance the

[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).

[2] The record contains a degree certificate showing that the Petitioner earned a Master of Science degree in mechanical engineering from [redacted] in May 2019.

proposed endeavor. *See 6 USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policymanual. Rather, we look at a variety of factors and education is merely one among many that may contribute to such a determination. We also note that "education, skills, and knowledge" is only a portion of the nonexclusive factors listed in *Dhanasar* for consideration under the second prong. *Matter of Dhanasar*, 26 I&N Dec. at 890. That said, the Petitioner's academic credentials can be distinguished from those of Dr. Dhanasar, who had earned two graduate degrees and a Ph.D. when his petition was filed; the Petitioner, however, while having earned a graduate degree, had not earned a Ph.D. at the time of filing, but rather was a doctoral candidate.

Further, we disagree with the Petitioner's assertion that her "cumulative academic and research training" renders her a "technical expert capable of steering the developments in the work she is engaged in" thereby making her well positioned to advance her endeavor. First, while the Petitioner's doctoral advisor, Dr. Y-T-, praised her for "research aptitude, academic excellence, outstanding communications skills, and urgent sense of duty," his recommendation letter focused primarily on the Petitioner's research and contributions to two projects, only one of which was directly relevant to waste heat utilization in building energy systems, the subject of the proposed endeavor. Regarding the other project, Dr. Y-T- stated that the Petitioner conducted a software survey and created a pilot project to develop "material for modeling and simulation coursework for graduate students." The Petitioner did not explain how the latter project relates to her specific endeavor, which entails researching ways to enhance waste heat integration in district heating systems. And while we acknowledge the Petitioner's citation record, we note that of the 17 total citations she had at the time of filing, 15 citations pertained to a paper she wrote in 2013 and also did not address the subject of the current endeavor, given that research aimed "to design a [laboratory fire-tube] steam boiler that could be easily and affordably fabricated for use as a teaching aid in school laboratories with limited budgets." Thus, while Dr. Y-T-'s recommendation letter states that the Petitioner has been "an integral part of the research team," it is unclear that her contributions render her well-positioned to advance her proposed endeavor.

On appeal, the Petitioner also highlights a recommendation letter from Dr. I-O-, who stated that he taught two of the Petitioner's courses and supervised her final year project at the [redacted] during her undergraduate studies. Although we do not dispute Dr. I-O-'s assertion that the Petitioner is "a skilled researcher in the field of energy systems," the Petitioner's citation record, which we discussed above, does not support his assertion that the Petitioner's work "has been influential to her peers" nor does the record contain sufficient evidence showing that the Petitioner has "a history of success in energy-related research." In another recommendation letter, J-L-, president of [redacted] discussed his company's receipt of a government grant which was used to fund a project in which his company partnered with [redacted] where the Petitioner is working on her Ph.D. J-L- described the project's goals with respect to waste heat utilization in building energy systems, stating that the Petitioner has been "an active participant in the project" and was lead author of three research papers on waste heat recovery in districting heating systems. However, aside from vaguely referring to the Petitioner's "efforts in system design, scientific publications and project management," J-L- did not specify the Petitioner's contributions to the project.

Further, the Petitioner has not demonstrated that being lead author of three research papers is indicative of her being well-positioned to advance her proposed research. While we recognize that research must add information to the pool of knowledge in some way in order 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 must 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.

Nor has the Petitioner established how her roles in "prestigious global engineering organizations" have led to "collaboration with industry leaders" or have "materially enhance[d] her ability to execute and scale her proposed endeavor," as claimed. Although the record shows that the Campus Sustainability Director at the Petitioner's university recommended her for a potential position as an employee or intern at an energy consulting firm, there is no evidence of any actual collaboration. The record contains email communications between the Petitioner and the program director as well as between the Petitioner representatives of the consulting firm. However, the email communications are of limited probative value as they merely contain broad references to the firm's "hiring processes" and assurances to get the Petitioner "up to speed on the [firm's] current positions we are seeking to fill." The record contains no evidence that these communications resulted in a professional relationship between the Petitioner and the consulting firm.

We also note concerns regarding the Petitioner's plan for future activities. As indicated in the Petitioner's discussions of her endeavor, she does not seek to merely continue conducting research, but rather to advance her research by collaborating with designers of building energy modeling software, energy modelers and systems managers of steam-based district heating systems, and energy educators. However, aside from working on a project with [redacted] who partnered with the Petitioner's university based on the test building's location on the university's campus, the record does not show that the Petitioner has engaged in the types of collaborations she indicates are integral to her endeavor.

III. CONCLUSION

After considering the Petitioner's education, skills, knowledge and record of success in related or similar efforts; plans for future activities; progress towards achieving her proposed endeavor; and interest from relevant entities or individuals, the record is insufficient to establish she is well positioned to advance her proposed endeavor. Accordingly, the Petitioner has not established that she satisfies the second prong of the *Dhanasar* analytical framework and therefore she has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

As noted earlier, SCOPS also concluded that the Petitioner did not establish that her endeavor has national importance 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 is required under prongs one and three of the *Dhanasar* analytical framework. While the Petitioner contests these conclusions on appeal, since our determination that the Petitioner did not establish that she is well established to advance her proposed endeavor is dispositive of the appeal, we decline to reach and hereby reserve the appellate argument on these issues. *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).

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.