U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39334087

Date: NOV. 24, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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 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 whether 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.

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 (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 determined that the Petitioner qualifies as a member of the professions holding an advanced degree. At the time of filing, the Petitioner provided evidence that he obtained a master's degree in applied physics from [redacted] in 2019. As such, we agree with SCOPS' determination. Thus, the sole issue on appeal 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 United States' national interest as defined in our precedent decision, *Matter of Dhanasar*, using the three-pronged analytical framework above.

SCOPS determined the Petitioner established the substantial merit of his proposed endeavor but not its national importance or that he is well-positioned to advance his proposed endeavor or that on balance, waiving the requirements of a job offer, and labor certification, would be beneficial to the United States. On appeal, the Petitioner asserts that SCOPS erred by ignoring relevant evidence in the record, misstated the national importance standard under prong one of *Dhanasar's* analytical framework, and ignored the science, technology, engineering and mathematics (STEM) provisions of the USCIS Policy Manual relating to national interest waivers.

Upon review, and for the reasons expressed below, we agree with SCOPS' conclusion regarding the substantial merit of the Petitioner's proposed endeavor. However, we disagree with SCOPS regarding the national importance of the Petitioner's proposed research endeavor and conclude he has established, by a preponderance of the evidence, the national importance of his proposed research endeavor (but not his endeavor to continue his employment at [redacted]. However, because the evidence is insufficient to establish that the Petitioner is well positioned to advance his proposed research endeavor, the appeal will be dismissed on that basis.

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.* Thus, we look for evidence of a proposed endeavor's broader implications in the field, or if an endeavor has significant potential to employ |U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, that may well be understood to have national importance. *Id.* at 890. In addition, *Dhanasar* explained that a proposed endeavor may have national importance if it has "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* at 889.

Furthermore, our policy pertaining to the STEM fields recognizes the importance of progress in STEM and the essential role of persons with advanced STEM degrees in fostering this progress, especially in

focused critical and emerging technologies, or other STEM areas important to U.S. competitiveness or national security. *See generally*, 6 *USCIS Policy Manual* F.5(D)(4), http://www.uscis.gov/policy-manual. Thus, in our analysis of an endeavor's national importance, if the endeavor aims to advance STEM technologies and research, whether in academic or industry settings, and the impact of the endeavor is to "also have sufficiently broad potential implications," it may be of national importance. *Id.*

The Petitioner's proposed endeavor, as described in his initial statement, is to "continue advancing pursuing [his] proposed endeavor as [redacted]," and to "also continue advancing . . . my research with Prof. N.Y.[2] and Dr. C.T.[3] from [redacted] [which] focuses on advancing my Ph.D. research on designing nano-optical elements that achieve highly non-trivial functionalities, including fully passive human facial verifications," and "continue to develop high performance optical simulation methods and optimization routines to devise high performance optical designs and verify our results in experiments," and manifest "next-generation optical devices with novel functionalities and superior performances." The Petitioner also emphasizes that his position at [redacted] will serve as his "chief opportunity to pursue my proposed endeavor." The Petitioner's updated statement in response to SCOPS' request for additional evidence, further highlights his intention to continue "investigations in high-performance, ultra-compact and low-cost optical modules and their practical applications in a range of critical emerging technologies such as advanced sensing and perception, and novel interfaces such as virtual reality and augmented reality," and the potential broader implications of his proposed work.

In addition to his personal statements, the record contains recommendation letters from the Petitioner's research collaborators; multiple relevant articles; and independent advisory letters addressing the importance of his prior research and potential broad implications of his proposed research in optical science that may help further disseminate knowledge in his area of expertise. The referenced documents (including his own coauthored articles, relevant industry reports, his detailed assertions, and consistent support letters) sufficiently demonstrate that the proposed endeavor relating to his prospective research in optical sciences has substantial merit and national importance based on its broader implications for the field of optical sciences and considering that his work includes critical and emerging technology (CET) development that may have broader implications in academia and industry settings.

However, while we agree with SCOPS that his endeavor to continue working at [redacted] as an [redacted] has substantial merit, the Petitioner did not provide sufficient evidence to establish that being an engineer at [redacted] would have broader implications, beyond potentially improving [redacted] products and increasing its market share, as contemplated by *Dhanasar*. The Petitioner advances several claims to establish his work at [redacted] is of national importance. First, he claims that his work will lead to the development of high performance, efficient and low-cost computation methods through optical sensing improvements, which will contribute to the U.S. economy while decreasing energy consumption of AI models and ensure sustainability of AI advancements. We acknowledge that [redacted] develops technology products that are broadly used, however, the Petitioner has not substantiated this claim in the record, by a preponderance. According to the letter provided by [redacted], which describes the Petitioner's job duties, one of the

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

Petitioner's duties includes "enhance[ing] product design/manufacturability," however, the letter does not establish that he is responsible for new product development.[4] As such, we do not find sufficient evidence to show that his job at would broadly impact the U.S.'s national economy while reducing AI's energy consumption, as he claims.

Second, the Petitioner asserts the United States' CET list establishes his endeavor's national importance and he highlights the CET's inclusion of "materials with novel properties," "security and privacy technology in augmented reality/virtual reality," and "human-machine interfaces" involving "augmented reality" and "virtual reality." However, while we acknowledge the list includes topics that are relevant to the Petitioner's research endeavor, the purpose of the CET list is to "ensure that science and technology policy decisions and programs are consistent with the President's stated goals" "across the diverse entities that make up the Federal research and development enterprise." The Petitioner's work at a for-profit entity, is therefore not the focus of the CET's list, and does not establish his engineering work is of national importance.

The Petitioner's third claim for national importance is that because owns approximately 95,500 patents globally, and other companies, like Samsung, Microsoft, and Qualcomm, cite to patents in areas like software and services, telecom and user interface, the Petitioner's work is of national importance because it may result in patents that are used by other entities to advance technology. However, the above-referenced letter from does not include any duty related to the development of patents. As such, while the Petitioner's work for may result in the creation of patents, this would be a byproduct of his work, and not its primary focus. Thus, the Petitioner's assertion that he will develop patents that advance the industry as a whole is not substantiated in the record.

Lastly, the Petitioner asserts that has a large enough job footprint to make his work for them of national importance and submits an article from 2019 titled ' ." While we acknowledge that is a big employer, and a CEO or other management-level executive at could certainly take credit for job creation, the Petitioner's work for them as an is not sufficiently related to job creation. *Dhanasar* explained that while the field of STEM education may be of national importance, the duties of a STEM teacher in a classroom would not necessarily be of national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 893. Similarly, here, while the Petitioner's endeavor to work at as an engineer is of substantial merit, a preponderance of the evidence does not establish its national importance because the impact of his work would not sufficiently extend beyond his employer. As such, our decision will consider only the Petitioner's research endeavor under the remaining *Dhanasar* prongs.

[4] letter lists the following duties: develops and validates optical sensors, runs optical simulation and modeling for design, expected to analyze data to draw conclusions, enhance product design/manufacturability, and drive failure analysis, collaborate with cross-functional teams including optical engineering, mechanical engineering, electrical engineering, reliability engineering, and process engineering to deliver state-of-the-art sensing solutions, product simulation and data analysis using a variety of software tools to support engineering validation and characterization, such as Matlab, Python, JMP, and failure mode analysis, root-cause diagnosis, and system-level problem solving.

B. Well-Positioned to Advance the Proposed Endeavor

Dhanasar's second prong shifts the focus from the proposed endeavor to the individual. To determine whether the Petitioner is well positioned to advance his proposed endeavor, we consider the totality of the circumstances based on various non-exhaustive factors including, but not limited to, 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 future customers, users, investors, or other relevant entities or individuals. *Matter of Dhanasar*, 26 I&N Dec. at 890. Our policy guidance emphasizes that there is no "one type of evidence" that is "required or sufficient to establish eligibility" and that we decide "each petition on a case-by-case basis, and the more integral a person is to an endeavor, the stronger the case the person presents that they are well-positioned to advance the endeavor." *See generally*, 6 *USCIS Policy Manual*, *supra*, at F.5(D)(3). Moreover, our guidance states that we consider persons with a Ph.D. in a STEM field "tied to the proposed endeavor and related to work furthering a [CET] or other STEM area important to U.S. competitiveness or national security" an especially positive factor in determining if the person is well-positioned to advance the proposed endeavor. *Id.* at F.5(D)(4).

SCOPS concluded that the evidence demonstrates that the Petitioner is not well positioned to advance his proposed research endeavor. Upon review, we agree for the following reasons. To begin, the Petitioner has not provided a meaningful or persuasive model or plan for future activities related to his research endeavor in optical science engineering. He has not explained *how* he intends to conduct his proposed research while working full-time for [redacted] as an engineer or how much time he intends to dedicate to performing this research while working for [redacted].

The record includes the Petitioner's statement of his proposed endeavor, academic credentials, resume, published coauthored scholarly publications, related citation records and citation percentile ratings; recommendation letters and independent advisory opinions discussing his *past* research and attesting to his skills in and contribution to the field of [redacted]. He also provided evidence to establish his current employment at [redacted] which began in June 2024.

We acknowledge the Petitioner's academic background, past publications (as a graduate student), and the recommendation letters that describe how his research, which focused on improving the efficiency and framework (or paradigm) used to simulate and design optical elements, has expanded the capabilities of designers in developing cutting edge high performance optical elements. In particular, the Petitioner's education[5] (his master's degree and Ph.D. coursework in applied physics) is a particularly favorable factor in our second prong consideration, however, as stated above, it is not sufficient to establish that the Petitioner is well-positioned to advance his proposed endeavor. Here, while we acknowledge the Petitioner's educational credentials, we note that he has no postdoctoral research experience in or related to the field of his proposed endeavor. *Cf. Matter of Dhanasar*, 26 I&N Dec. at 891-92 (noting Dr. Dhanasar's relevant postdoctoral research in the proposed field as a factor indicating he was well-positioned to advance his proposed endeavor).

[5] At the time of filing this petition, the Petitioner had not yet received his Ph.D. (We acknowledge he received the degree later in the same month he filed this petition.) Because a petitioner must establish eligibility at the time of filing, for purposes of our analysis, we can only consider his Ph.D. coursework and research he conducted in pursuit of his Ph.D. but not his actual Ph.D. degree. *See* 8 C.F.R. § 103.2(b)(1) (requiring a petitioner to establish eligibility for the requested benefit at the time of filing the benefit request and to continue to establish eligibility through adjudication).

The record does not establish the Petitioner has maintained the previous progress he achieved towards his specific proposed research endeavor or that there is any interest in his *future* research through a job offer, current funding, or a statement of interest in funding his *future* research, or sufficient information to understand how he intends to pursue his proposed *future* research while simultaneously working at [redacted] as a full-time engineer. In the Petitioner's personal statement, he claims that working at [redacted] "offers [him] a unique advantage in conducting [simulation and experimental research into optical sensors integrated into consumer electronics that monitor environment and health." The Petitioner further states that he will continue to disseminate through publications of patents and engagements with [redacted] supply chain partners in the United States and describes that his research into "next-generation high-performance, ultra-compact and low-cost optical modules" will be "published in the form of research articles and reviews." And the Petitioner asserts that '[redacted] is particularly suited for my proposed endeavors" because his work at [redacted] is "research-heavy." However, the above-mentioned letter from [redacted] does not include research or publication of his research as a core job duty, thus the Petitioner's claims are not sufficiently corroborated in the record.

The Petitioner claims that he will continue his "work with academic partners to publish research articles, independent of my current employment" and he cites to a "new paper on [redacted]' and a "manuscript for publication" which he claims furthers his proposed endeavor as an "independent researcher and inspires academic researching nationwide and around the world." However, the letter provided by Dr. N.Y.[6] at [redacted] does not substantiate the Petitioner's claim that he will continue to research or collaborate with him or her. Instead, this letter speaks to the impact of the Petitioner's past doctoral student research which is insufficient to establish that he is well-positioned to carry out his *future* proposed research endeavor. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (standing for the proposition that we may, in our discretion, use opinion statements submitted by a petitioner as advisory, but where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that opinion.)

Moreover, the record contains only one research article published since he began his employment at [redacted] in June 2024. The Petitioner's article '[redacted]' was published in [redacted] 2024 in the [redacted] however this article appears to only include research he conducted while pursuing his Ph.D. and not while he worked at [redacted]. Thus, the record remains silent has to how he will carry out research and publication of his research while working full-time at [redacted] such that he has established he is well-positioned to advance his proposed *future* research endeavors. Moreover, the petition does not include any evidence that the Petitioner has engaged in postdoctoral research. Thus, on the whole, the record reflects that since he began his employment at [redacted] he has not actually engaged in research that will be published or disseminated to establish he is well-positioned.

The record lacks sufficient evidence that he has interest or support garnered from potential customers, users, investors, or other relevant entities or persons. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(1). The Petitioner claims that his past research has received funding from the National Science Foundation (NSF) and the Air Force Office of Scientific Research as indicated on the articles published

[6] Again, we use initials to protect individuals' privacy.

in the [redacted] in 2024 and in the publication, [redacted] in 2023. However, the record does not otherwise contain any evidence that the Petitioner himself has received U.S. government funding, or that he initiated or was the primary award contact on any funding proposals. *Cf. Matter of Dhanasar*, 26 I&N Dec. at 892-93 & n. 11 (noting the significance of Dr. Dhanasar's own research projects that received consistent, repeated government fundings, for which he was the initiator and primary award contact on several funding proposals and the only listed researcher on many of the grants).

The Petitioner highlights his citation record on his Google Scholar profile as well as excerpts of other articles that cite to his papers to support their own findings. However, beyond having been cited in published works, the articles do not describe how his future research endeavor has interest or support from others in his field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(1) (providing examples of evidence to establish a petitioner is well-positioned, such as excerpts of published articles showing positive discourse around, or adoption of, the person's work). We acknowledge the independent opinions provided by a professor and researcher at [redacted] and at [redacted] attesting to their own citations to his research, and the positive impact of the Petitioner's research; however, the letters do not describe how the Petitioner will carry out future research activities given that he is no longer a graduate student, a postdoctoral fellow, or a full-time researcher at [redacted] Thus, while the letters speak to the impact of his past research, they do not demonstrate he is well-positioned to carry out his *future* proposed research endeavor.

In sum, we acknowledge the various support letters and advisory opinions discussing his past graduate school research projects; publication and citation records; collaborations with others and their familiarity with his skills in optical science engineering and its implications for technological advancements; as well as his current job at [redacted] And, while we acknowledge these letters provide details explaining the significance of the Petitioner's past research to the field to demonstrate a short history of accomplishment, success, and progress towards achieving his proposed research endeavor, because the Petitioner has not sufficiently established how he will carry out his research while also engaging in full-time employment at [redacted] the record remains insufficient, by a preponderance, to establish the Petitioner is well-positioned to engage in *future* research.

Similarly, because the Petitioner has conducted, published, and presented research while pursuing his Ph.D., we recognize that his research added information to the pool of knowledge in order to be accepted for publication, presentation, or academic credit, however not every individual who has performed original research will be found to be well-positioned to advance a proposed future endeavor particularly when, as here, the individual is working full-time for an entity whose primary focus is product development and not research.

In sum, the record is insufficient to establish the Petitioner is well positioned to advance his proposed endeavor. Accordingly, we dismiss his appeal on this basis.

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.

Because the record does not establish prong two of the *Dhanasar* framework, which is dispositive, we reserve our opinion regarding whether the record establishes the third *Dhanasar* prong. *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

As the Petitioner has not met the requisite second prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established eligibility 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.