U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40362390

Date: NOV. 24, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a graduate student researcher in structural 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 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:

[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 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 concluded that although the Petitioner meets the EB-2 classification as an advanced degree professional and his proposed endeavor has both substantial merit and national importance, the Petitioner did not sufficiently demonstrate that he is well-positioned to advance the proposed endeavor or that, on balance, waiving the job offer requirement would benefit the United States. Despite SCOPS' errors in the decision which we will discuss in more detail below, we exercise our de novo review and agree with SCOPS' ultimate conclusion regarding the Petitioner's eligibility under the first and second prong of the *Dhanasar*'s analytical framework. As such, we decline to reach and hereby reserve our opinion regarding his eligibility under 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).

A. EB-2 Classification

We will briefly address the threshold issue of whether the Petitioner qualifies for the EB-2 classification as an advanced degree professional. We agree with SCOPS that the Petitioner meets this classification based upon the evidence in the record, including the Petitioner's diploma from [redacted] in Iran and an academic credential evaluation indicating that he obtained an advanced degree, equivalent of a U.S. master of science in civil engineering – geotechnics.

Subsequent to this finding, SCOPS added a paragraph regarding the Petitioner's supposed acknowledgement of "development and achievements that took place after the priority date" and cited to *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm'r 1971) and *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998), for the proposition that visa petition may not be approved based on speculation of future eligibility or material changes made after the filing of the petition. However, the record does not support that the Petitioner made such acknowledgement or that the case citations are relevant to the issue of his eligibility for the EB-2 classification.[2] In addition, the decision's second prong analysis contains a statement that "the evidence in the record does not convincingly demonstrate the Petitioner has earned an advanced degree" without any further context or explanation. Therefore, we withdraw these confusing statements in SCOPS' decision and affirm that the Petitioner has met the EB-2 classification as an advanced degree professional.

B. Whether the Proposed Endeavor Has Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. An endeavor's merit may be demonstrated in a range of areas such

[2] We suspect that this paragraph refers to the Petitioner's submission of additional journal articles published after the filing of the petition in response to the request of evidence (RFE).

as business, entrepreneurialism, sciences, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Petitioner describes his proposed endeavor as follows:

> My proposed endeavor is to develop cementitious materials and construction methodologies in order to enhance the sustainability and resilience of civil infrastructure, addressing the environmental impact of cement production and improving the cost efficiency and performance of concrete. . . .
>
> I plan to continue pursuing my proposed endeavor while earning my Ph.D. in civil engineering from the [redacted] At the [redacted], my work includes conducting research that enhances the structural integrity and longevity of U.S. bridges. I specifically investigate the use of combined near-surface mounted flexural strengthening and U-wrap shear strengthening in reinforced concrete beams using carbon fiber reinforced polymers and the effects of integrating carbon nanotubes into polymer concrete. . . .
>
> Upon the completion of my degree, I intend to pursue a position as a professor at the [redacted] My planned research topics include developing eco-friendly and cost-efficient concrete materials to advance sustainable construction practices, enhancing the durability and sulfate resistance of concrete structures to prolong their lifespans, and using new bridge rehabilitation techniques to improve the quality of bridges in the U.S.

Based upon the probative and credible evidence in the record in finding innovative and alternative methodologies for production of cements associated with building concrete infrastructure, reducing harmful environmental effects and increasing durability in cementitious materials, and of the potential for further research and development in this area to broadly impact the field of structural engineering, we agree with SCOPS that the Petitioner's proposed endeavor has both substantial merit and national importance.

C. Whether the Petitioner Is Well-Positioned to Advance the Proposed Endeavor

While the first prong of the *Dhanasar* framework focuses on the proposed endeavor and whether it has substantial merit and national importance, the second prong shifts the focus to the individual petitioner and whether they are well-positioned to advance it. 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.

Before discussing the relevant factors in *Dhanasar*, we will address the Petitioner's arguments on appeal that SCOPS' analysis of the second prong lacks coherence. The Petitioner points out that SCOPS misstated the number of his published journal articles as two and later corrected as four; that

SCOPS inaccurately portrayed the Petitioner as being "among the top 99.79% of researchers in the field" instead of his journal citations as being ranked at the 99.79th percentile. SCOPS also erroneously referred to "final merits determination" and cited to cases relating to the EB-2 classification's exceptional ability category for the proposition of considering the totality of the evidence. We acknowledge that SCOPS' decision lacks clarity at times and the analysis contains erroneous or irrelevant references to facts or legal citations; therefore, we withdraw these named instances of inaccuracies in SCOPS' decision. However, we exercise de novo review and conclude that the Petitioner did not sufficiently demonstrate that he is well-positioned to advance the proposed endeavor under the second prong, as discussed below.

We first consider the factors regarding the Petitioner's education, skills, knowledge, and record of success. *Id.* at 890. The Petitioner obtained a master's degree in a field related to his proposed endeavor and has been pursuing Ph.D. in structural engineering at [redacted] since 2022. Also, his published research and peer review service show that the Petitioner has developed skills and knowledge that would be useful in continuing to research durable, eco-friendly, and cost-efficient concrete materials relevant to the field of structuring engineering. Regarding the Petitioner's record of success in related or similar efforts, we conclude that the evidence appears to demonstrate that the published work that the Petitioner has contributed to has been cited frequently by independent researchers at a rate that is high relative to others in the field. However, we do note that the Petitioner began his doctoral program in 2022 and did not yet possess a Ph.D. in his field as of the time of filing. We consider an advanced degree, particularly a 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 to be considered along with other evidence in assessing the second prong. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual.

The next factors applicable to the second prong of the *Dhanasar* framework are the petitioner's model or plan for future activities and any progress toward achieving the proposed endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 890. The Petitioner contends that he intends to pursue a position as a professor at the [redacted]. In response to the RFE, the Petitioner further reiterated his plan to advance his proposed endeavor as follows:

> [The Petitioner] plans to continue his development of cementitious materials and construction strategies that increase the resilience of civil infrastructure against sulfate-induced degradation. . . . Furthermore, he plans to study the implementation of higher zeolite rates as an alternative in cementitious materials, focusing on how it improves performance, reduces the U.S.' reliance on imported cement, minimizes costs, and ensures durable infrastructure. . . . Collectively, these targeted efforts pave the way for more sustainable and effective construction methods and materials across key U.S. industries. [The Petitioner] intends to conduct this research as a professor at the [redacted]

While the Petitioner states his intention to pursue a permanent position as a professor, the record does not contain evidence, other than the Petitioner's own statement, related to obtaining this position, such as a job offer letter or other information about the position. With the RFE response, the Petitioner submitted an updated personal statement stating that "I plan to accept any professor positions or postdoc positions in universities," but he did not provide evidence of any contacts or communications

with the [redacted] or any other university, that would demonstrate interest in or support the Petitioner's proposed endeavor and provide him with a professor position.

In the case of a petitioner who does not intend to be self-employed, we consider a job offer or communications with prospective employers, while not required, to be relevant to demonstrate the circumstances or capacity in which the person intends to carry out the endeavor and the feasibility of that plan. *See generally* 6 *USCIS Policy Manual, supra,* at F.5(D)(3). Here, the Petitioner's stated intention for advancing his endeavor requires an offer of employment. Therefore, the fact that the Petitioner has not provided documentary evidence of pursuing this employment or any specific steps taken toward achieving employment is a negative factor in this instance. By contrast, the petitioner in *Dhanasar* demonstrated that he was already employed as a postdoctoral research associate at a university, was performing research and development related to his proposed endeavor at this university, and intended to continue to do so. *See Matter of Dhanasar*, 26 I&N Dec. at 891. We therefore conclude that the evidence in the record related to the Petitioner's model or plan for future activities and his progress towards achieving the proposed endeavor does not support a finding that the Petitioner is well-positioned to advance it.

The final factor enumerated in *Matter of Dhanasar* relates to evidence of interest from potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890. Here, we similarly conclude that the evidence in the record does not weigh in favor of demonstrating that the Petitioner is well-positioned to advance the endeavor. In support of this factor, the Petitioner contends that "his research has been supported by grants from multiple U.S. government transportation entities, including the Oklahoma Department of Transportation (ODOT) and the U.S. Department of Transportation-funded Innovative Bridge Technologies/Accelerated Bridge Construction University Transportation Center (IBT-ABC/UTC)." However, we conclude that this assertion is not sufficiently established by the record.

In support of this claim, the Petitioner submitted copies of publications he has co-authored while working towards his degrees at the [redacted] and [redacted] which indicate in the acknowledgements section that the research was supported by grants or awards from these agencies. However, the record does not establish the parameters of these grant awards; for example, the record does not show whether the Petitioner applied for and received this funding for his research. By contrast, in *Dhanasar*, we noted that the petitioner 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. Here, we are unable to tell the Petitioner's role, if any, in obtaining this funding, and therefore whether this funding indicates any interest from relevant agencies in the Petitioner pursuing the proposed endeavor. The evidence in the record regarding the Petitioner's funding from U.S. government agencies does not appear to be similar in kind to the funding received by the petitioner in *Matter of Dhanasar*.

Not every individual who has conducted original research, published findings, and provided peer review service 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. *Id.*

at 890. The Petitioner's knowledge, skills, and record of success in related efforts, as demonstrated by his education, publication history, citation record, and peer review service, 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. In considering the record in totality, we conclude that the Petitioner has not established that he is well-positioned to advance the proposed endeavor.

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.