U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39255989

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 Ph.D. student and researcher in the area of petroleum 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 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:

[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 determined that the Petitioner qualifies as a member of the professions holding an advanced degree. We agree with SCOPS' determination. The Petitioner has a master's degree in petroleum engineering from [redacted], which he obtained in 2016. 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.

A. Prong One: Substantial Merit and National Importance

SCOPS determined that the Petitioner established his eligibility under *Dhanasar's* first prong which examines whether his proposed endeavor has substantial merit and is of national importance. We agree for the following reasons.

The Petitioner's proposed endeavor is to research in the field of petroleum engineering, with a focus on elucidating well integrity, cap rock reliability, and dynamic alterations in reservoir properties under the influence of carbon dioxide injection to address the issue of carbon dioxide storage security. The Petitioner asserts his research is an effort to positively impact global climate change mitigation. On appeal, the Petitioner emphasizes that his research focuses on three separate areas: drilling optimization, tripping optimization and enhanced oil recovery. The Petitioner is currently pursuing a doctorate degree in petroleum engineering at the [redacted] and intends to work as a professor at the same (or other similar) institution. In addition to teaching and researching, the Petitioner intends to publish his research in peer-reviewed journals and share his research with relevant stakeholders at academic and industry conferences and symposia.

Because the Petitioner's research has applications in advancing energy storage, which is an area identified by the National Science and Technology Council as a critical and emerging technology, we agree with SCOPS that the proposed endeavor is of substantial merit and of national importance. As such, upon review of the record, the Petitioner has established, by a preponderance of the evidence, that he meets the first prong of the *Dhanasar* framework.

B. Prong Two: Well-Positioned to Advance the Proposed Endeavor

SCOPS determined the Petitioner's evidence is insufficient to establish he is well positioned to advance the proposed endeavor, and we agree for the following reasons. SCOPS considered the letters of reference provided by researchers and professionals in petroleum engineering and determined that the letters failed to provide specific examples of how the Petitioner's research influenced the field or industry beyond adding to the general pool of knowledge. SCOPS also cited some of the letters' contents to explain how the information was not sufficiently detailed to demonstrate how the

Petitioner's work impacted the field. For example, SCOPS pointed out that one of the letters claimed that the Petitioner's work "improved drilling performance and reduced unnecessary energy use and costs" but that this language was insufficient to establish he is well-positioned to advance his proposed endeavor. SCOPS also determined that there was insufficient support in the record for the suggestion that the Petitioner's work has impacted his field "beyond . . . implicating the individuals or entities utilizing his work."

In analyzing the impact of Petitioner's research, SCOPS noted that there was insufficient independent evidence to show that his research findings have been "frequently cited by independent researchers or that they otherwise constitute a record of success or progress in advancing research relating to the endeavor" or that the "number of citations reflect a level of interest from relevant parties sufficient to meet *Dhanasar's* second prong." Lastly, SCOPS noted that citations are "merely one factor among many that may contribute to a finding that [the Petitioner] is well-positioned . . . [and that] the record [did not contain] letters from interested U.S. government agencies or quasi-governmental entities . . . providing relevant information about how well positioned [the Petitioner] is to advance the endeavor."

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the individual. *Matter of Dhanasar*, 26 I&N Dec. at 890. To determine whether the Petitioner is well positioned to advance the proposed endeavor, we consider factors including (but not limited to): his 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*. In addition, for science, technology, engineering and mathematics (STEM) degrees and fields, there are additional evidentiary considerations. *See generally* 6 *USCIS Policy Manual*, F.5(D)(4), https://www.uscis.gov/policy-manual. Our guidance states that 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 or other STEM area important to U.S. competitiveness or national security" is considered an especially positive factor under the second prong. *Id.*

Here, the record includes the Petitioner's master's degree, curriculum vitae, a personal statement describing his proposed endeavor, six letters of reference, four research papers (on three of which the Petitioner is first author) published from 2016-2018, symposium submissions, emails acknowledging his submissions, 15 peer-reviewed conference articles (on 11 of which the Petitioner is first-author), his google scholar profile showing 91 citations and an H-index of 6, and examples of research articles citing his work. The Petitioner also provided a scholarly article published by Yale University which indicates that barring instances where authors are listed alphabetically, the first author is the person who has performed the central experiments of the project, prepared the first draft of the manuscript, and ensured that all other authors meet the requirements for authorship. The Petitioner also asserts that we should consider as an additional factor that because one of his papers was "featured" in *Applied Sciences* in 2024, and *Applied Sciences* is the eighth ranked Engineering and Computer science publication according to Google Scholar, a totality of the evidence establishes he is well-positioned to advance his proposed endeavor.

USCIS recognizes the importance of progress in STEM fields and the role of persons with advanced STEM degrees, particularly Ph.D. degrees, in fostering 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*, *supra*, at F.5(D)(4). Here, because the Petitioner has not completed his doctorate degree, our policy with respect to according the holders of doctorate degrees in STEM fields an "especially positive factor" for establishing the second *Dhanasar* prong does not apply. Thus, while we have considered the Petitioner's education in light of our STEM policy, his master's degree in petroleum engineering, is not sufficient, even with the additional evidence to establish he is well-positioned to advance his proposed endeavor.

In *Dhanasar*, the petitioner held three advanced degrees, including a Ph.D., tied to his proposed research and his proposed endeavor had significant implications for U.S. national security and competitiveness. To determine whether the petitioner in *Dhanasar* was well-positioned to continue to advance his proposed endeavor, we also favorably considered the significance of his research which had been corroborated by evidence as having peer and government interest; the significance of his role in his research projects; consistent funding from government agencies of his research projects; and his existing position with a U.S. university where he intended to conduct his proposed research work. *Matter of Dhanasar*, 26 I&N Dec. at 892-93. We acknowledge that not all researchers equally match the *Dhanasar* petitioner's skills, education, research topics, and financial support from government institutions however, the comparison is useful to understand the totality of the evidence needed to establish an individual is well-positioned to advance their proposed endeavor.

The Petitioner's assertion that SCOPS' decision contains "confusing" language is unpersuasive. As stated above, SCOPS' decision analyzed the claimed impact of the Petitioner's research and found that the level of citations and the letters of reference provided were insufficient, in the totality of the evidence, to establish he is well-positioned to advance his proposed endeavor. We agree and adopt and affirm SCOPS' analysis of the Petitioner's citation record and the letters of reference. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

The Petitioner asserts SCOPS overlooked evidence (such as his citation record) where he favorably compared to the petitioner in *Dhanasar* and emphasized factors (such as the lack of documented support from interested government agencies or quasi-governmental entities in the United States), that are not of "relevance" to our second-prong analysis and where the Petitioner compares unfavorably to the petitioner in *Dhanasar*. Further, the Petitioner lists the citations he obtained from industry and academic institutions to assert that his "empirical baselines and optimization references underscores his pivotal role in shaping modern approaches to drilling optimization . . ." and to assert that he did provide independent evidence to corroborate the information contained in the letters of reference. However, the Petitioner's research in the field of petroleum engineering does not demonstrate sufficient progress or success in his field, or interest in his work to establish he is well positioned to advance the proposed endeavor. The letters of reference are complimentary of the Petitioner's research endeavors, so far, but that is not sufficient, by a preponderance of the evidence, to satisfy his burden under our second prong analysis.

The Petitioner emphasizes the fact that his research has been published in journals with high impact and, citing our policy manual, he asserts that because a journal's impact is relevant in our assessment of the researcher's extraordinary ability, we must also necessarily consider it relevant in our assessment of whether a petitioner is well-positioned to advance their proposed endeavor, and eligible

for a national interest waiver of the job offer requirement. However, the Petitioner's publication in the journal *Applied Sciences* where his paper [redacted] was published in [redacted] 2024, post-dates the filing in August 2024. And, because the Petitioner must establish his eligibility at the time of filing the petition, the impact factor of *Applied Sciences* will not be considered in our analysis of whether the Petitioner has established his record of success in related or similar efforts, at the time of filing. 8 C.F.R. § 103.2(b)(1). Likewise, the Petitioner's article [redacted] which was published after the filing of the petition, cannot provide a basis for eligibility *Id.* Thus, while we agree that publications in high impact journals could be considered in our second prong analysis, the Petitioner has not satisfied his burden, by a preponderance of the evidence, to establish his research is high impact.

The Petitioner has not provided any evidence that his intended research is supported through the allocation of funding by a U.S. based education, government or private institution. On appeal, the Petitioner includes a letter from a researcher at the [redacted] attesting that the Petitioner's research position is funded by ExxonMobil. However, because our decisions are limited to the evidence in the record at the time of the unfavorable decision, when new evidence is submitted with an appeal, we will apply *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988) and *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988) to determine whether we will consider the evidence in our decision. Here, because SCOPS' request for additional evidence put the Petitioner on notice of the deficiencies in the record, he was given a reasonable opportunity to respond with this evidence, and we will not consider this new evidence on appeal.

Lastly, we emphasize that although employment or a job offer is not a requirement for a national interest waiver, the Petitioner has not submitted evidence of interest to hire him from the [redacted] or any other U.S. educational institution. Where a petitioner does not intend to be self-employed, we consider job offers or communications with prospective employers, while not required, relevant to show the circumstances or capacity in which the petitioner intends to carry out the proposed endeavor and the feasibility of that plan. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(3) n. 77. Without sufficient probative evidence demonstrating the means or financial support to undertake his proposed research in the United States, the Petitioner has not demonstrated that he is well positioned to advance his plan for future activities and his proposed endeavor.

In sum, while the Petitioner has conducted productive research that has been useful to other researchers in his field, he has not demonstrated sufficient progress or success in his field, or interest in his work from relevant parties, to show that he is well positioned to advance his proposed research endeavor.

C. Prong Three: On Balance, Waiving the Requirements of a Job Offer Would be Beneficial to the United States

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 three prongs of the *Dhanasar* analytical framework, we conclude that he has not established his 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.