U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39116271

Date: OCT. 2, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an aerospace engineering researcher, seeks second preference 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 EB-2 classification. 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 the Petitioner had not established eligibility for 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. 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 establish eligibility for a national interest waiver, petitioners must demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. In addition, petitioners must show the merit of 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 that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if:

- 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.

[1] *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

II. ANALYSIS

The Petitioner received a Ph.D. in aerospace engineering from [redacted] in 2018. If he is admitted to the United States, the Petitioner intends to seek employment with either Airbus Commercial Aircraft or a similar entity where he plans to continue his work as an aerospace researcher and fatigue/damage tolerance engineer.

SCOPS found that the Petitioner qualified as a member of the professions holding an advanced degree, and we concur. SCOPS also found that the proposed endeavor had substantial merit and national importance. However, SCOPS determined that he had not established he was well-positioned to advance his proposed endeavor; and that on balance, waiving the job offer requirement would benefit the United States. Therefore, SCOPS concluded that the Petitioner was not eligible for EB-2 classification.

A. Substantial Merit and National Importance of the Proposed Endeavor

SCOPS determined that the Petitioner's proposed endeavor had substantial merit. As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner sufficiently demonstrated that the endeavor falls within one or more of the areas contemplated by *Dhanasar*. We concur.

To satisfy the national importance requirement, the Petitioner must demonstrate the "potential prospective impact" of his work. In his personal statement titled "Proposed Endeavor & Future Plans in the Field," the Petitioner provided the following:

> "My proposed endeavor is to develop multiscale microstructural models for predicting the mechanical behavior of aluminum foams under high cyclic fatigue and impact loading in order to improve the energy absorbers used in the automotive and aerospace industries. To progress this endeavor, I will utilize my extensive experience with material testing techniques, finite element analysis, and coding in Abaqus software. My work will continue to be circulated in the field through my peer-reviewed publications and conference presentations.
>
> I intend to pursue a position as a fatigue and damage tolerance engineer in the United States. I am most interested in pursuing this position with Airbus Commercial Aircraft. My planned research topics include conducting durability and damage tolerance analyses to verify that structural integrity requirements have been met, as well as analyzing aircraft primary and secondary structures. I will also be developing loads/stresses using finite element models ranging from coarse air vehicle models to detailed peak stress models. [sic] performing fatigue analysis using classical methods and/or finite element analysis. and [sic] performing crack initiation/growth life determinations in accordance with platform requirements.

> Please note that my research at Airbus Commercial Aircraft will be promoted at the national level through the company's outreach, partnerships, and research foundation. Located on the Wichita State University innovation campus, Airbus was the first dedicated engineering facility outside of Europe. Their team of more than 200 staff members and engineers produce superior Airbus products across the globe."

SCOPS observed that the record contained documentary evidence that provided relevant background information and supported the claims of national importance and potential prospective impact of the proposed endeavor. The documentation included industry reports which indicated that the global automotive manufacturing market was worth about 2.86 trillion U.S. dollars in 2021 and was projected to grow to 2.95 trillion U.S. dollars in 2022. The materials showed that energy absorbers play an important role in the overall safety of passengers in vehicles (generally, the materials that are used as energy absorbers should be lightweight, inexpensive, and capable of withstanding high amounts of shock during a crash). Materials such as aluminum are useful in making energy absorbers more efficient and because of its high strength and low weight, it can significantly enhance performance and improve the fuel economy in automobiles and improve safety for drivers. Here, the Petitioner asserts that his work significantly impacts the use of aluminum through his developed models for predicting the behavior of aluminum foams under different fatigues and loads, driving key advancements in the durability and reliability of different components. The documentation indicates that in 2020 there were 35,766 fatal car accidents on roadways, out of a total of 5,250,837 car accidents. To highlight this issue, U.S. National Science and Technology Council issued a Critical and Emerging Technologies List Update identifying the Petitioner's field of endeavor as a critical and emerging technology that is potentially significant to U.S. national security or U.S. technological competitiveness.

The Petitioner submitted documentation indicating that the benefit of his proposed research had broader implications for the field, as the results were disseminated to others in the field through scientific journals, for example, the *Journal of Alloys and Compounds* in 2017. As the Petitioner has demonstrated both the substantial merit and national importance of his proposed research, we agree with SCOPS that he meets the first prong of the *Dhanasar* framework.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the Petitioner. The record includes documentation of his curriculum vitae, academic credentials, published and presented work, peer review activity, and recommendation letters. The Petitioner also offered evidence of articles that cited to his published work.

On appeal, the Petitioner objects to SCOPS's request that the Petitioner produce evidence that he has had a "leading, critical, or indispensable role in the endeavor," and to produce "evidence of a record of success related to original contributions of major significance in the field." The Petitioner argues that based on the use of these phrases, SCOPS was applying the extraordinary ability visa requirements under 8 C.F.R. § 204.5(h)(3), which is a higher standard than the national interest waiver visa. We

determine however, that the use of these phrases, though inartful, are harmless. Upon de novo review, we will consider the requirements for the national interest waiver visa as expressed in the statute, regulations, case law and policy.

The Petitioner contends on appeal that his education, research experience in aerospace engineering, published articles, and recommendation letters demonstrate that he is well positioned to advance his proposed endeavor. However, for the reasons discussed below, we determine that the record supports SCOPS's determination that the evidence is insufficient to demonstrate that the Petitioner is well positioned to advance his proposed research under *Dhanasar*'s second prong.

The Petitioner submitted recommendation letters from individuals in the field. SCOPS observed that the letters described the Petitioner as a highly accomplished expert in advanced engineering materials, whose work provided insight into the materials that are used in critical transportation technology. However, SCOPS determined that the Petitioner had not submitted evidence to demonstrate that his work had influenced the field, even though the authors appeared to work in the same field. In the letters supporting the petition, several authors discussed the Petitioner's past work.[2] For example, Professor H-H-T[3] of the [redacted] stated that the Petitioner conducted several significant research projects including "one on failure modes and strength predictions of structural composite laminates." He continued as follows, "[c]omposite components made of flat or curved panels that are co-cured, co-bonded, or secondarily bonded are replacing traditional mechanical fastening methods. This allows loads to be carried in the plane of the structural components. However, matrix cracking, delamination, and fiber breakage are major damages that affect composite skins and stiffeners. [The Petitioner] developed a composite bonded skin/stringer to identify damage patterns. He successfully characterized the matrix crack-induced damage and failure modes in composite laminates under uniaxial tensions loads. He further developed a numerical methodology to predict damage modes and failure loads and identified damage initiation, matrix cracks, and delamination. [The Petitioner's] groundbreaking methods are able to predict level of damage, strengths, and weaknesses or degradation of various layered designs, which ensure that composite components are safe and durable." However, Professor H-H-T- did not provide specific examples indicating that the Petitioner's methodology or system has been utilized in vehicles or aircrafts, or that his work otherwise constitutes a record of success in the field.

In a letter from Dr. M-J-, a lecturer in the [redacted] at the [redacted] he initially states that he knows the Petitioner by reputation and, "it is my professional opinion he must be permitted to pursue his research in the United States unimpeded." Dr. M-J- stated that the Petitioner "investigated the fatigue behavior of aluminum foam . . . he created a numerical method to predict low-cycle fatigue behavior in aluminum foam." He continues, "[f]irst, he created a micro-model of aluminum foam under the loading of pressure-pressure low-cycle fatigue. Next, he created a life-fatigue diagram within the low-cycle bounds for open-cell aluminum foam. Lastly, [the Petitioner] examined the low-cycle fatigue behavior of foam aluminum with holes using two different models. He concluded that his multiscale finite element model more successfully determined fatigue behavior, proving it was a more efficient tool for understanding and improving new materials." However, Dr. M-J- did not offer examples of how the Petitioner's testing

[2] While we discuss a sampling of these letters, we have reviewed and considered each one.
[3] We use initials to protect the privacy of individuals.

methodology or its results have been implemented or utilized in the advanced engineering materials field.

In addition, Dr. P-N-, an associate professor of mechanical engineering at [redacted] states that the Petitioner "used a particular foam, [redacted] to test the strength under steady pressure" and "[h]e created a computer simulation and real-world experiments for this purpose." Additionally, "[h]e crafted two digital models to test the pressure and stress and a prediction model to discern the lifespan of a structure made from the aluminum foam." Dr. P-N- concludes, "[f]ew others in the field have contributed on the same level as [the Petitioner], which makes him a much-needed member of the field of advanced engineering materials in the United States." However, Dr. P-N- did not provide specific examples indicating that the Petitioner's experiments with [redacted] metal foam [redacted] has affected the advanced engineering materials industry, has served as an impetus for progress or generated positive discourse in his field, or otherwise represents a record of success or progress rendering him well positioned to advance his proposed endeavor.

The record includes additional examples of articles which cited the Petitioner's work. For instance, he presented an article, titled '[redacted]," (*2020 Advanced Composite Letters*), in which the authors cited to the Petitioner and two co-researcher's paper titled "[redacted]," as one example that for the open-cell aluminum foams, there is limited information available about the compressive response and energy absorption with constrained transversal boundaries. While the authors briefly referenced the Petitioner's work, their article does not differentiate his paper from the 15 other papers they cited. Another article offered by the Petitioner, entitled, "[redacted]" (*2023 Materials Science & Engineering A*), also cites to the Petitioner and two other researcher's paper stating: "In the past decades, studies on the compression behaviors of CCAFs subjected to quasi-statistic loads have revealed that their mechanical properties depended on the relative (RD), cell shape, and cell wall microstructure." The writers referenced two other articles in addition to the Petitioner's. Again, the article's author does not distinguish the Petitioner's paper from the approximately 53 other papers he referenced. Moreover, as SCOPS observed, at the time of filing, the Petitioner had not published any articles since 2019.

On appeal, the Petitioner submits a collection of other articles that have cited his work. However, because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because "petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial").

After acknowledging the Google Scholar report, SCOPS conducted its own research into the Petitioner's citation record using data from Clarivate Analytics (CA). The Petitioner did not reference CA in his attempt to meet the requirements of the national interest waiver. SCOPS looked at the baseline citation rates and percentiles by year of publication for the engineering field and reported that none of the Petitioner's publications ranked above the top 50% in terms of citations. The Petitioner objects to SCOPS's use of CA which he deems to be derogatory. He asserts that SCOPS was required

to provide him with an opportunity to rebut this information. *See* 8 C.F.R. § 103.2(b)(16)(i) ("If the decision will be adverse to the applicant or petitioner and is based on derogatory information considered by the Service and of which the applicant or petitioner is unaware he/she shall be advised of this fact and offered an opportunity to rebut the information and present information in his/her own behalf before the decision is rendered . . . Any information presented by or in behalf of the applicant or petitioner shall be included in the record of proceeding."); *see also* 1 *USCIS Policy Manual*, E.6(F)(4) noting generally that "USCIS is also required to issue a [Notice of Intent to Deny] when derogatory information is uncovered during the course of the adjudication that is not known to benefit requestor and USCIS intends to deny the benefit request on the basis of that derogatory information." However, SCOPS did not solely rely on its findings in CA but instead considered multiple independent grounds. Even if CA, an independent and publicly available source, were to be excluded, the result would have been the same as CA was just one component. Therefore, we determine that the SCOPS inclusion of CA was a *de minimus* error. Moreover, the documentation from CA states that "[c]itation frequency is highly skewed, with many infrequently cited papers and relatively few highly cited papers. Consequently, citation rates should not be interpreted as representing the central tendency of the distribution." https://esi.help.clarivate.com/Content/field-baselines.htm [last accessed September 17, 2025]. Furthermore, we acknowledge the Petitioner's approximately 70 citations at the time of filing, and hereby withdraw SCOPS's conclusions concerning CA.

Regarding the Petitioner's overall citation record, he asserts that his "superior record of 70 citations at the time of filing indicated a record of success and influence dwarfing that of Dr. Dhanasar." The Petitioner however concedes Dr. Dhanasar's petition was not approved on the basis of his citations. Nonetheless, the Petitioner complains that SCOPS did not acknowledge his "relative strengths in this area" which he contends are "a viable means of approval in its own right." The Petitioner's 70 citations on Google Scholar are derived from 10 research papers. As it relates to the citation of the Petitioner's work, the record includes 2018 information from Google Scholar indicating that his three highest cited articles, titled "Analysis of composite skin/stiffener debounding and failure under uniaxial holding," "Experimental and multi-scale analyses of open-celled aluminum foam with hole under compressive quasi-static loading," and "Low cycle fatigue analyses of open-celled aluminum foam under compression-compression loading using experimental and microstructure finite element analysis," each received 29, 18, and 12 citations, respectively. The Petitioner did not specify how many citations for each of these individual articles were self-citations by him or his coauthors. Here, the Petitioner has not demonstrated that the number of citations received by his published articles reflects a level of interest in his work from relevant parties sufficient to meet *Dhanasar*'s second prong.

Regarding his peer review activity, the Petitioner pointed to six peer-reviewed journal articles and nine peer-reviewed conference paper articles. He argues that his published journals have "been featured in top outlets in his field, including *Composite Structures* (impact factor 6.3, ranked first in Mechanical Engineering, first in Structural Engineering, and second in Composite Material by Google Scholar), the *Journal of Alloys and Compounds* (impact factor 6.2), and the *Journal of Materials Engineering and Performance* (ranked ninth in Metallurgy by Google Scholar)." The Petitioner documented the stature of the aforementioned journals using Google Scholar Metrics. However, the record does not include comparative statistics indicating how often other researchers are cited, nor has the Petitioner otherwise demonstrated that the number of citations received by his published articles reflects a level of interest in his work from relevant parties sufficient to meet *Dhanasar*'s second prong. Nor has he

offered other evidence demonstrating that his participation in the widespread peer review process represents a record of success in his field or that it is otherwise an indication that he is well positioned to advance his research endeavor.

On appeal, the Petitioner points to his STEM degree as evidence that he is well positioned to advance the proposed endeavor. According to the USCIS Policy Manual, "USCIS considers 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, an especially positive factor to be considered along with other evidence for purposes of the assessment under the second prong." *See* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policymanual. As it relates to the Petitioner's education, while his Ph.D. from [redacted] renders him eligible for the underlying EB-2 visa classification, he has not shown that his academic accomplishments by themselves are sufficient to demonstrate that he is well positioned to advance his proposed endeavor. In *Dhanasar*, the record established that the petitioner held multiple graduate degrees including "two master of science degrees, in mechanical engineering and applied physics, as well as a Ph.D. in engineering." *Id.* at 891. But, we look at a variety of factors in determining whether a petitioner is well positioned to advance his proposed endeavor and education is merely one factor among many that may contribute to such a finding.

The record demonstrates that the Petitioner has conducted, published, and presented research during his postdoctoral studies at [redacted], but he has not shown that this work renders him well positioned to advance his 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 his proposed endeavor. Rather, we 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. The Petitioner, however, has not sufficiently demonstrated that his published and presented work has served as an impetus for progress in the aerospace engineering field or that it has generated substantial positive discourse in the aerospace industry. Nor does the evidence otherwise show that his work constitutes a record of success or progress in advancing research relating to the development of multiscale microstructural models for predicting the mechanical behavior of aluminum foams under high cyclic fatigue and impact loading in order to improve the energy absorbers used in the automotive and aerospace industry. We note that the Petitioner is specifically desirous of working at Airbus Commercial Aircraft, or a comparable company. He also claims that "he is presently in communication with academic and research institutions in an effort to identify suitable employment opportunities." He asserts that his model or plan for future activities includes the following research topics: "conducting durability and damage tolerance analyses, analyzing aircraft primary and secondary structures, and developing fine element models to evaluate loads and stresses." He expounded further on three related research projects he wants to focus on namely: "the development of thermos-elastic models for porous nanocomposite plates, the multiscale vibration and buckling analysis of functionally graded foam structures, and the integration of artificial intelligence . . . for predictive structural analysis." Importantly, as counsel states, he "reiterated his plain [sic] to obtain a research-oriented position in the United States that would facilitate his pursuit of the proposed endeavor . . ." But he did not offer evidence of these

communications. We are cognizant that the regulations specify that a job offer is not required in order to qualify for the national interest waiver. However, the Petitioner has not demonstrated that he is in a position to bring his proposed endeavor to fruition without employment at Airbus Commercial Aircraft or a comparable company. Thus, this deficiency undercuts his ability to demonstrate that he is well positioned to advance his proposed endeavor.

On appeal, the Petitioner asserts that he has "obtained the interest of multiple relevant parties in his research efforts . . . [the Petitioner] provided detailed letters discussing the impact of his research;" "been cited by independent research teams all over the world, demonstrating the interest of his colleagues and peers in his work product;" "[h]is work has been featured in prominent journals in his field, thus exhibiting interest" and "has conducted peer review for *Composites Communications*, demonstrating considerable interest in his work on the part of this publication." However, the record does not demonstrate sufficient interest from potential customers, users, investors, or other relevant entities or individuals to show that he is well positioned to advance his proposed endeavor. While the recommendation letters were complimentary, and the Petitioner's work was cited, and he conducted peer review, he has not sufficiently shown that he has garnered "the interest of potential customers, users, investors, or other relevant entities or individuals." In considering the record in totality, including the fact that the Petitioner has not demonstrated the ability to pursue his proposed endeavor in the United States through an offer of employment, a statement of interest, or other potential funding that would allow the Petitioner to pursue his endeavor, the Petitioner has not established that he is well positioned. As the record is insufficient to demonstrate that the Petitioner is well positioned to advance his proposed research endeavor, he has not established that he satisfies the second prong of the *Dhanasar* framework.

C. Balancing Factors to Determine Waiver's Benefit to the United States

As explained above, the third prong requires the 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. Here, the Petitioner claims that he is eligible for a waiver due to the impracticality of labor certification, his expertise in the field, and the importance of his research. However, as the Petitioner has not established that he is well positioned to advance his proposed endeavor as required by the second prong of the *Dhanasar* framework, he is not eligible for a national interest waiver and further discussion of the balancing factors under the third prong would serve no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where applicants do not otherwise meet their burden of proof).

III. CONCLUSION

As the Petitioner has not met the requisite second prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above-mentioned reasons, with each considered as an independent and alternate basis for the decision.

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.