U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39697554

Date: OCT. 8, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a postdoctoral candidate and graduate research assistant, 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 the Petitioner was well-positioned to advance the proposed endeavor or that it would be beneficial to the United States to waive the requirements of a job offer and labor certification. 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. If a doctoral degree is customarily required for the specialty, the non-citizen must possess a U.S. doctorate or a foreign equivalent degree. 8 C.F.R. § 204.5(k)(2).

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:

- 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 Petitioner earned a Master of Science degree in Electrical Energy from the [redacted] and a Bachelor of Technology degree in Electronic and Electrical Engineering from [redacted] SCOPS determined that the Petitioner was a member of the professions holding an advanced degree, and we agree. Therefore, the sole issue on appeal is whether he is eligible for, and merits as a matter of discretion, a national interest waiver.

The Petitioner is currently pursuing doctoral studies and is working as a graduate research assistant at [redacted] Although SCOPS found that the Petitioner did not receive any "awards," we acknowledge that the Petitioner received a student paper honorable mention award at the IEEE Antennas and Propagation Symposium for his paper on [redacted] which he claims was a novel approach to [redacted] that had not previously appeared in published literature. He has also conducted research, published work and given presentations. However, for the reasons discussed below, we conclude that the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

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. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, 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.

In his initial filing, the Petitioner summarized his proposal as follows: "I propose to leverage [redacted] nd Artificial Intelligence to develop innovative devices and systems for [redacted] and other relevant applications." On appeal, the Petitioner explains that his endeavor, "focuses on designing, developing, and eventually deploying [redacted]

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

[redacted] which form the foundation of next-generation innovation across critical U.S. industries." He further explains that "[t]hese technologies are essential to maintaining the nation's competitiveness in [redacted] and [redacted]." Thus, the Petitioner's study involves the field of [redacted].

SCOPS determined that the Petitioner provided sufficient evidence to meet the first prong of the *Dhanasar* framework. Based on the evidence in the record, we agree with SCOPS's determination that the Petitioner has demonstrated both the substantial merit and national importance of his proposed endeavor.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. To determine whether they are 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. *Matter of Dhanasar*, 26 I&N Dec. at 890.

SCOPS determined that the Petitioner did not establish that he is well positioned to advance his endeavor. Following our de novo review, we agree. In support of the petition, the Petitioner presented letters from other professionals in his field attesting to his skills and the importance of his past research. For example, the letter from [redacted] IEEE Fellow and Distinguished Professor at the [redacted] wrote in her recommendation letter: "An intriguing aspect of [The Petitioner's] research lies in the innovative [redacted], as demonstrated in his conference presentation of the paper '[redacted]." This advanced [redacted] enables precise [redacted]. Such capability significantly enhances [redacted] and optimizes overall performance. These features make it particularly valuable for modern applications, including [redacted] where efficient and reliable communication is paramount." On appeal, the Petitioner argues that this co-written paper referenced by [redacted] was a "first-of-its-kind [redacted]' and that he has produced "innovative and original research that stands out in its novelty." However, we note that this letter does not provide sufficient examples indicating that the Petitioner's work is impactful or otherwise constitutes a record of success in his field. Rather, the Petitioner's work appears to be in its early stages; and it has not been implemented, utilized or applauded by others in the field. We further note that [redacted] principal investigator and the Petitioner's PhD advisor attested as follows, "[[t]he Petitioner] has the ability to integrate diverse fields of expertise – spanning [redacted] – into cohesive solutions that address some of the most pressing national challenges. His innovative use of machine learning in [redacted] exemplifies his forward-thinking approach, enabling significant advancements in efficiency and accuracy." However, although [redacted] praises the Petitioner's work, the Petitioner has not submitted sufficient evidence that his work has influenced the field of endeavor.

SCOPS observed that the Petitioner had minimal citations to his published work. On appeal, the Petitioner argues that some of his work was only recently published (during 2023 to 2024) and asserts that "it is well understood that citation accrual, especially in specialized fields like [redacted] design, takes time." He further argues that his "Google Scholar profile shows that [his] research is being cited by other technical publications" and that "[e]arly engagement from the academic community is a valid indicator of [his] work's growing relevance." We note that the Petitioner has written or co-written 3 publications from 2023 to 2024, and he has 7 citations for 2023, but none in 2024. However, the record does not demonstrate 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. While the record demonstrates that the Petitioner has conducted, published and presented research during his graduate studies, it has not shown his work renders him well positioned to advance his proposed endeavor. Moreover, while we recognize that research must add information to the pool of knowledge in some way 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. Overall, the Petitioner has not sufficiently demonstrated that his published and presented work has served to propel the field of [redacted]

On appeal, the Petitioner asserts that he has received funding under the [redacted] to conduct his research. In *Dhanasar*, the record established that the petitioner "initiated" or was "the primary award contact on several funded granted proposals" and that he was "the only listed researcher on many of the grants." *Id.* at 893, n.11. However, the record indicates that in this case, the grant recipient was [redacted] and while the Petitioner benefited from the grant, he is not listed as the primary contact, an investigator or program manager. Considering the totality of the evidence, we conclude that the Petitioner is not well positioned to advance his proposed endeavor under the second prong of *Dhanasar*.

C. Whether on Balance a Waiver is Beneficial

SCOPS determined the record did not demonstrate the proposed endeavor would be beneficial to the United States; we agree. 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. 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. In each case, the factors 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. *Matter of Dhanasar*, 26 I&N Dec. at 890-91. 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.

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-stated 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.