U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 39169857

Date: OCT. 16, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a civil and environmental engineer, 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 required job offer, and thus of a 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 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:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and

[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).

- On balance, waiving the job offer requirement would benefit the United States.

*Id.*

## II. ANALYSIS

SCOPS determined the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. SCOPS concluded that the Petitioner's proposed endeavor met the requirements of the first *Dhanasar* prong for substantial merit and national importance. However, SCOPS also concluded that the Petitioner had not established he was well-positioned to advance his proposed endeavor under the second *Dhanasar* prong. In addition, SCOPS determined that, on balance, the Petitioner had not met the third *Dhanasar* prong's requirements to show it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The Petitioner proposes to "design and optimize novel asphalt materials incorporating recycled asphalt concrete, plastics, and nanomaterials in order to improve pavement formulations and advance the nation's infrastructure." The Petitioner asserts that integrating recycled materials and nanomaterials in asphalt material will mitigate landfill accumulation, reduce the carbon footprints from new material production, and enhance pavement durability and strength. We concur with SCOPS that the proposed endeavor has substantial merit. The Petitioner's assertion that his endeavor would advance the nation's infrastructure and have positive environmental effects indicates the endeavor may have national importance. However, even if the proposed endeavor may have national importance, we conclude the evidence does not establish that he is well-positioned to advance it, and the record thus does not satisfy *Dhanasar*'s requisite second prong. We will therefore dismiss the appeal on this ground.

### B. Well Positioned to Advance the Proposed Endeavor

The second prong relating to whether a petitioner is well positioned to advance his or her proposed endeavor shifts the focus from the proposed endeavor to the individual. *Id.* at 890. 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. *Id.*

SCOPS acknowledged the Petitioner's bachelor's and master's degree in civil engineering; "articles authored by the self-petitioner, as well as information about various journals in which the articles appeared;" evidence of citations of his articles; evidence of funding; and record letters of support. However, SCOPS declined to consider evidence originating after the time of filing, such as funding evidence and updated citation rates, as petitioners must establish eligibility at the time of filing under *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971) and *Matter of Izummi*, 22 I&N Dec. 169, 175 (Assoc. Comm'r 1998). Overall, SCOPS found the Petitioner did not establish his research had been implemented in the field thus showing a record of success or progress, that he led funded

research projects or received interest from U.S. governmental agencies or quasi-governmental entities, or that conducting reviews and attaining his education level was sufficient to demonstrate he is well-

On appeal, the Petitioner asserted that "significant pieces of evidence" submitted were ignored in the denial decision and that all the evidence should be reviewed under the appropriate preponderance of the evidence standard. The Petitioner asserts that he has the education, knowledge, and skills necessary to meet this criterion. The Petitioner holds a bachelor's and master's degree in civil engineering and claims to hold "substantial experience in the field of civil engineering" through acting as a "civil engineer at [redacted], as a civil project engineer at [redacted] and as an assistant civil engineer at [redacted]." Though Petitioner's counsel cites to previously-filed exhibits in support of these work experience claims, the record below does not contain evidence related to these claimed positions. Similarly, while Petitioner's counsel asserts the Petitioner "conducted several important research projects," "[a]cross these positions," the record similarly does not contain evidence that the Petitioner conducted research for these positions. We note the assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (*citing Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Here, the record does not support counsel's assertions.

The record reflects that at the time of filing, the Petitioner was working as graduate research assistant for [redacted] since 2021. At that time, the Petitioner indicated he planned to pursue his proposed endeavor while earning a PhD from [redacted]. Then, upon degree completion, the Petitioner intended to pursue a position as postdoctoral researcher at [redacted]; the Petitioner's resume similarly reflected he would be pursuing his doctoral degree until 2025. However, on appeal, the Petitioner asserts he does not have a doctoral degree, does not address these prior assertions, and does not sufficiently explain how he now intends to pursue his proposed endeavor. In a request for evidence and on appeal, the Petitioner states he is employed as a pavement engineer in the Office of Materials and Research at the [redacted]. The Petitioner asserts his responsibilities include "conduct[ing] field investigation and develop[ing] strategies for the rehabilitation and construction of transportation projects ranging from low to high complexity, utilizing advanced pavement design procedures . . . review[ing] friction testing data and lead investigations on cement-modified recycled base projects." The Petitioner claims his responsibilities align with his proposed endeavor as they also include "researching asphalt pavement materials and contributing to the development and revision of pavement related specifications." However, the Petitioner does not explain and the record does not contain other evidence or any supporting letters from individuals familiar with the Petitioner's current employment or responsibilities establishing how they render him well positioned to advance his proposed endeavor. It is not apparent from the Petitioner's own general description of his role that his current employment encompasses the activities and responsibilities that will realize and advance his proposed endeavor - the design and optimization of novel asphalt materials incorporating recycled asphalt concrete, plastics, and nanomaterials in order to improve pavement formulations and advance the nation's infrastructure. Further, it is not clear on appeal that the Petitioner still intends to obtain his doctoral degree or pursue employment as a postdoctoral researcher at [redacted] as he initially indicated in his proposed endeavor, and the Petitioner's plan and progress toward achieving his proposed endeavor at his current employer is not sufficiently addressed or explained.

The Petitioner asserts that SCOPS' denial decision diminishes the Petitioner's academic accomplishments as he "has already demonstrated that he is more than capable of performing at the highest levels of academic research without a doctoral degree." The Petitioner highlights SCOPS' acknowledgement that an advanced degree in a STEM field related 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 an especially positive factor. The Petitioner also asserts that his master's degree was sufficient to qualify him as a member of the professions holding an advanced degree. While we also acknowledge the Petitioner's master's degree and recognize it is a particularly favorable factor, we note that academic accomplishments by themselves are not necessarily sufficient to establish that a petitioner is well-positioned to advance a proposed endeavor. *See generally*, 6 *USCIS Policy Manual*, F.5(D)(2), https://www.uscis.gov/policy-manual (explaining that education is merely one factor among many that may contribute to whether a person is well-positioned to advance their proposed endeavor). We must consider the evidence of record in totality and look to a variety of factors. *Id.* Here, while we have acknowledged the Petitioner's educational credentials, we do note that he does not have a doctoral degree or postdoctoral research experience 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). Further, as discussed, the record does not otherwise show the Petitioner has made any meaningful progress toward achieving his specific proposed endeavor or demonstrate how the Petitioner intends to pursue this endeavor within his current employment role or in other future roles.

The Petitioner also asserts his ability to advance the proposed endeavor is "evidenced by the prestigious nature of the journals that have repeatedly published his findings," including the Journal of Cleaner Production. The Petitioner indicates his work (including seven peer-reviewed journal articles, four peer-reviewed journal articles accepted for publishing, two technical reports, and one book chapter) has amassed a Google Scholar record of 118 citations with three of his articles ranking amongst "the top 10% most-cited articles published in 2024 in Materials Science." The Petitioner claims these metrics, in addition to OpenAlex data placing him "among the top 3.48% of researchers in the field in terms of citation impact and the top 0.46% of researchers in the field in terms of research productivity," collectively demonstrate "he has exerted and maintained an impressive influence on the field of civil engineering." We note the record does not establish how many of the 118 citations were self-citations by the Petitioner or his co-contributors. In addition, citation frequency which is quantitative in nature does not reveal the reasons for the citations, which involve a qualitative analysis.

The record also contains evidence of other researchers citing to the Petitioner's work, including researchers from other countries; though these citations indicate some degree of interest in his research from his colleagues and peers in the field, the articles citing his work do not highlight or comment upon the Petitioner's research in a manner that demonstrates that his work has been implemented, utilized, or applauded by others in the field or that he is otherwise well positioned to advance the proposed endeavor. The Petitioner also asserts the peer review he conducts "is by no means commonplace," within the context of this petition, as it represents a criterion for extraordinary ability under the EB-1 designation. In support of this claim, the Petitioner submitted a copy of a "My Review History" document from the [redacted] generally indicating he has conducted two reviews, one completed on September 13, 2022, and the other completed on the following day. However, this certification only verifies the Petitioner's completion of two peer

reviews and does not contain any other related information, including which reviews he conducted, the topics of these works, how the review were conducted, and the extent of the Petitioner's role in the process.

The Petitioner asserts that SCOPS erroneously failed to recognize the Petitioner's funding sources, which include the Virginia Department of Transportation, the North Carolina Department of Transportation, and a 2024 [redacted] (scholarship award) sponsored by the [redacted]. The Petitioner claims that the scholarship award "to continue his research is clear evidence that [the Petitioner] is well-positioned to advance his proposed endeavor." The record reflects that one of the Petitioner's co-authored articles, "[redacted]" from the Transportation Research Record in 2023, contains a disclosure that the research was "supported by the North Carolina Department of Transportation under [redacted] and the Virginia Transportation Research Council and the Virginia Department of Transportation under [redacted]" However, the record does not contain any additional detail as to the purpose for [redacted] or [redacted], the initiators for the funding, the recipients, or how the funds were allocated. *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). In addition, there is no indication that the Petitioner's receipt of three thousand dollars for his scholarship award was awarded "to continue his research." Rather, the scholarship award letter included the awarders' "hope[s] that this award will help [the Petitioner] finish [his] graduate work at [redacted]." Without further information, we cannot conclude that these funding sources were granted for the Petitioner to continue his research, as related to his proposed endeavor, or that they evidence the interest of potential customers, users, investors, or other relevant entities or individuals in this proposed endeavor.

The Petitioner contends that SCOPS improperly assigned weight to submitted letters of support that "offered specific details on [the Petitioner's] contributions, with many featuring direct examples of its use and its frequent citation." The Petitioner asserts that these letters of support contain "equivalent, if not superior, praise for the inherent values of his contributions to the field of civil engineering," to the *Buletini v. I.N.S.*, petitioner whose contributions led to a study on dispensary facilities and a German-Albanian medical dictionary. 860 F.Supp. 1222, 1232-1233 (E.D. Mi. 1994). On appeal, the Petitioner highlights two letters of support in the record from independent recommenders in support of his assertions. One letter of support states that the Petitioner's work "has improved the design of semi-flexible pavements, that he has "developed improved methodologies that have wide applications for public infrastructure, as they improve the standard practices of pavement design, allow for the integration of waste materials, and reduce overall material costs." The second letter states that the Petitioner's studies "enhance cost-effectiveness and reduce the environmental impacts associated with vehicle infrastructure," while his work "has been relied upon by his peers" in their own work. However, as independent recommenders, neither letter writer indicates whether or how they have personal knowledge of the Petitioner's skills or work, outside of his stated citation history. And apart from general assertions, the letters do not detail exactly, or provide examples of, how the Petitioner's specific work has satisfied the authors' above claims and demonstrated that it has influenced the industry, 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.

Overall, the Petitioner has not sufficiently shown a track record of past success or progress related to the proposed endeavor, specifically designing and optimizing novel asphalt materials. While we recognize that research necessarily adds 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 individual research will be found to be well-positioned to advance his proposed endeavor.

For the reasons discussed above, we do not find the Petitioner has sufficiently supported his claim that he is well-positioned to advance his proposed endeavor

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

## III. CONCLUSION

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