U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39350017

Date: SEPT. 25, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is pursuing her Ph.D and 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 (NIW) 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).

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the record established that the Petitioner qualified for the underlying visa classification, but she did not merit a discretionary waiver of the job offer requirement in the national interest. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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
- On balance, waiving the job offer requirement would benefit the United States.

[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).

Id.

II. NATIONAL INTEREST WAIVER

The Petitioner claims she earned a foreign bachelor's and master's degrees in computer science, and she provided evidence of a U.S. Master of Science in Technology Innovation that she earned in March of 2024, approximately seven months before filing this petition. In the initial filing, she stated:

> My proposed endeavor is to develop new sensing hardware and algorithms to track and analyze user behavior patterns in order to promote natural and efficient interactions, thereby enhancing work and learning efficiency . . . . My work will continue to be circulated in the field through my peer-reviewed publications in journals and conference proceedings.

She indicated she would pursue her endeavor while earning her doctoral degree where her "work includes literature review, building hardware prototypes, conducting user studies to collect and analyze data, and designing algorithms to process users' data." She briefly mentioned ongoing research about eye movement data and a language model to identify words that might be unfamiliar to people learning English as a second language (ESL), a ring that can detect interactions across different surfaces, and helping turn extended reality headsets (e.g., augmented or virtual reality) into productivity tools. She claimed that she would publish on these and other topics in the near future.

As for future research topics, she noted that she planned on developing technology to improve how people interact with extended reality devices like headsets and designing sensor networks to track human activities and to streamline interactions in workplaces and educational settings. The only reference to a military application within the initial filing was a general inference that any improvements to the general area of studying human-machine interactions could tangentially touch the military when the cover letter her attorney prepared stated the Petitioner's "expertise in efficient and natural human machine interactions is key for strengthening the nation's military capabilities and improving learning efficiency."

When she responded to SCOPS' request for evidence (RFE), she added a new objective of her research to focus on military defense applications and stated:

> My research aims to develop advanced [human-machine interfaces] to enhance factory training, military operations, and human-robot collaboration. These technologies are essential to increasing production efficiency, reducing operational costs, and improving combat readiness.

She described an artificial intelligence (AI) driven interface for controlling military equipment such as unmanned aerial vehicles, robotic arms, and defense machinery, as well as simplifying and increasing the ease of using the control systems for military equipment. She also described eye-tracking research to optimize user engagement and cognitive load in military personnel training by integrating eye-tracking into the training. Although the Petitioner's RFE response continued to discuss the types of research she would perform for the general public, the addition of and direct focus

on the military training research appears to be in response to the RFE that informed her that her initial presentation of her proposed endeavor was inadequate to demonstrate its national importance.

We consider the Petitioner's expansion of her research into new areas of military readiness and defense to be distinct from the area of research she proposed in the initial filing. Because the military training aspect was not part of her initial filing, we will not factor that proposed activity into our analysis here. If the Petitioner wishes to pursue research in that area, and to have it considered as part of an NIW petition, she may do so in a future filing. A petitioner must establish eligibility at the time they file the visa petition. 8 C.F.R. § 103.2(b)(1), (12). USCIS may not approve a visa petition if the alien was not qualified at the priority date but becomes eligible at a subsequent time based on new claims. *See Matter of Izummi,* 22 I&N Dec. 169, 175–76 (Assoc. Comm'r 1998); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

As for SCOPS' decision, they concluded the Petitioner did not satisfy any of the *Dhanasar* prongs.

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. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

SCOPS decided the Petitioner demonstrated her proposed endeavor had substantial merit, but she did not show it was nationally important. However, they did not offer sufficient analysis to explain why the standard was not satisfied, other than to indicate she did not show that her endeavor rose to the level of national importance and they stated: "The record in the immediate case does not establish that your proposed work and individual contributions offer original innovations of such significance that they will advance the field." While we acknowledge that *Dhanasar* does include qualitative requirements when it comes to the national importance requirements, SCOPS did not adequately explain from where the mandate described in their language can be found in the *Dhanasar* decision.

The *Dhanasar* decision provides examples illustrating that—when it comes to national importance—USCIS' analysis of an endeavor's impacts can properly include qualitative aspects that have "*national* or even *global* implications within a particular field" or have "*significant* potential to employ U.S. workers or has other *substantial* positive economic effects." *Matter of Dhanasar*, 26 I&N Dec. at 889–90. (Emphasis added). These examples place a qualifier on the level of significance or importance in a field, as well as the level of potential and the amount of positive economic effects, respectively to corroborate that a proposed endeavor should "impact the field . . . more broadly" (*Id.* at 893) and that the endeavor has "broader implications" (*Id.* at 889).

USCIS policy offers additional examples incorporating a qualitative analysis applied to the degree of potential when it states that "if the evidence of record demonstrates that the person's proposed endeavor has the *significant* potential to broadly enhance societal welfare or cultural or artistic enrichment, or to contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance." *See generally* 6 *USCIS Policy Manual* F.5(D)(3),

https://www.uscis.gov/policy-manual (citing *Matter of Dhanasar*, 26 I&N Dec. at 889–90, 892). (Emphasis added). We view the foregoing applications of a qualitative nature to be appropriate and supported by agency precedent and policy.

With that said, the Petitioner's proposed endeavor falls within a science, technology, engineering, or mathematics (STEM) field, and she showed that she has a plan to develop intuitive human-machine interfaces to enhance workforce productivity through extended reality technologies, and to leverage intelligent user behavior tracking for personalized education. Human-machine interfaces, artificial intelligence technologies, and extended reality demonstrate broader implications on the field from the Petitioner's proposed research, and she has preponderantly shown the national importance of her endeavor.

We therefore withdraw SCOPS' adverse decision under prong one and conclude that she has established the substantive merit and national importance of her proposed endeavor.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Matter of Dhanasar*, 26 I&N Dec. 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.*

Under the second prong, the Petitioner claims she has secured a position in academia, and she relies on her publication record to include the funding it received, her peer review work, and an award. But her claims relating to what position she would seek changed after the petition's filing date and we will not factor that aspect into our analysis. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Izummi,* 22 I&N Dec. at 175–76; *Matter of Katigbak*, 14 I&N Dec. at 49. We also will not consider any post-petition filing citations to the Petitioner's two published works. *Id.*

For her citation record as of the petition filing date, the Petitioner acknowledges she has only shared her findings through two published articles that garnered a total of 31 citations. She did not however, specify how many citations were self-citations by her or by her coauthors. Furthermore, the Petitioner submitted data from Clarivate Analytics regarding baseline citation rates and percentiles by year of publication. The Petitioner claimed that both of her papers are among the top 10 percent cited in the Clarivate InCites Essential Science Indicators field of computer science for their respective publication years. The citation information concerned the larger field of "computer science" and compares her citation frequency in human-machine interactions or artificial intelligence to that of the larger field. While we acknowledge that human-machine interactions or artificial intelligence is part of the larger field of computer science, the Petitioner has not submitted sufficient evidence confirming that information extrapolated from the larger field applies equally to each subfield, including human-machine interactions or artificial intelligence. As a result, the Petitioner's comparison of her citation number in her field with information regarding citations in the larger field of computer science does not sufficiently establish the level of her success or impact in the field of human-machine interactions or artificial intelligence.

Additionally, according to the data from Clarivate Analytic's InCites Essential Indicators, computer science papers published in 2022 receiving four citations and those in 2023 receiving one citation were in the top 10 percent; the two lowest years in a decade. Regardless, citation frequency is quantitative in nature and it does not reveal the reasons for the citations, which involve a qualitative analysis. While we agree with the Petitioner that these citations indicate some degree of interest in her research from her colleagues and peers in the field, this evidence is not sufficient to demonstrate a level of interest or a record of research success that renders her well positioned. Again, it is unclear whether any of these figures rely on self-citations. Also, the documentation from Clarivate reflects 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." Stated differently, the Petitioner did not sufficiently show the reliability of these figures.

Within the appeal, the Petitioner refers to a letter from [redacted], an assistant professor at the [redacted] The professor claimed the Petitioner's work was instrumental to his own research and discussed one of his published papers from 2024. The Petitioner provided the professor's published work in which they cited to her work in one instance among twelve total publications in a two-paragraph section discussing acoustic-based sensing. The general reference to her work was comprised of the following: "There is also plenty of research on using speaker-microphone pairs for acoustic sensing. For instance, [redacted] leveraged an ultrasonic chirp to track head position and orientation on earphones." This brief reference to the Petitioner's work from the authors does not differentiate her paper from the 94 other papers they cited. These factors do not support the professor's statement that her work was instrumental to his own.

Next, the Petitioner claims that the conference proceedings where her two articles were published is considered "'[redacted]' and '[redacted]' with authors for [redacted] conference papers required to have made 'substantial intellectual contributions' to the paper." But the evidence the Petitioner relies on to corroborate her statement of the prominence of the conference proceedings derives from the [redacted] own website. In other contexts, USCIS is not required to rely on the self-promotional material of a publisher and "we may require more than the publication's own say-so that it is" of high quality. *Cf. Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 185 (D.N.J. 2021) (citing *Braga v. Poulos*, No. CV 06-5105 SJO FMOX, 2007 WL 9229758, at *7 (C.D. Cal. July 6, 2007) *aff'd*, 317 F. App'x 680 (9th Cir. 2009) (concluding that we did not have to rely on a company's self-serving assertions on the cover of a magazine as to the magazine's status as major media)). Relying on this evidence, the Petitioner has not demonstrated the prestige of the conference proceedings.

The Petitioner also notes her research projects "earned funding from the Chinese Postdoctoral Science Foundation and the National Natural Science Foundation of China [], which only supports projects that conduct innovative research to drive socio-economic progress." The record reflects the Chinese government funds the two named entities. But the Petitioner does not explain how funding from the Chinese government for her past research demonstrates she is well positioned to advance her endeavor.

Also relating to funding, we note that while the Petitioner's past research did receive funding, that work did not identify who among the authors was primarily responsible for securing the funding for the research project. As it stands, the record does not include evidence establishing that the Petitioner was the primary awardee or recipient of any grant funding, nor does the record reflect the amount of funding received. In *Dhanasar*, the record established that the petitioner "initiated" or was "the primary award contact on several funded grant proposals" and that he was "the only listed researcher on many of the grants." *Id.* at 893, n.11. Here, the record does not show that the Petitioner—rather than one of her coauthors or advisors—was mainly responsible for obtaining funding for their research projects. And a final note about funding, the Petitioner has not provided any claims or evidence relating to future funding for her research.

Turning to the Petitioner's work performing peer review, on appeal she claims that she conducted peer review in four instances for various entities. She provided one email from one of the named entities, and a separate summary printout showing she performed peer review in what appears to be three instances. While the record does reflect the Petitioner has performed some peer review work, she did not submit evidence demonstrating these were "authoritative conferences" as she claims on appeal. The Petitioner did not offer evidence to document the stature of any conferences, nor did she supply other evidence demonstrating that her occasional participation in the widespread peer review process represents a record of success in her field or that it is otherwise an indication that she is well positioned to advance her research endeavor. Simply participating in the peer review process does not confirm she has meaningfully readied herself to be well positioned.

And the Petitioner identifies an award she received for best demonstration at a conference, and separately a lengthy full-page quote from her personal statement she offered in response to the RFE. Although she offers an explanation of why the award she received at the conference was notable, which we agree with, by itself this is inadequate to demonstrate the Petitioner is well positioned, nor is it sufficient when considered with the remaining appellate claims under *Dhanasar's* second prong.

As for the portion of her personal statement she quotes in the appeal brief, it describes an effort that is materially different from her personal statement she presented when she filed the petition. When she first filed, she stated she would pursue an assistant professor position at her alma mater. But in the RFE response, and on appeal as well, she stated that she would pursue a postdoctoral position and would seek to collaborate with industrial employers to promote her research. The Petitioner did not offer an explanation for the change that could directly affect her ability to pursue her proposed endeavor. Ultimately, the Petitioner's statement—after shifting focus from her initial statement—does not establish she is well positioned to advance her endeavor.

It's not enough to simply develop a research history and to contribute to the field's common repository of knowledge through publishing and presenting. To be well positioned to advance the endeavor, a petitioner should be able to demonstrate factors that elevate their research well beyond what is common or routine. For instance, the alien in the *Dhanasar* decision not only possessed multiple graduate degrees in relevant fields, but he also had experience performing research and work in areas of critical importance to U.S. national defense as well as to the scientific community in general. Beyond that, governmental entities expressed interest and made investments in his efforts related to the proposed endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 892–93. In other words, the significance of *Dhanasar's* research was illustrated through various important factors elevating it beyond the norm.

We did not find *Dhanasar's* teaching activities to meet other NIW requirements, nor were they equally persuasive under the second prong of the analysis. *Id.* at 893.

And finally, as one of the errors the Petitioner claim SCOPS committed, she indicates they did not address any of the recommendation letters from others in her field. But she failed to identify any particular authors of any letters, and she did not explain what content from them should be persuasive of her eligibility under the second prong.

Collectively, the Petitioner's claims of her future position, her publication record and funding, her peer review work, and an award under the second prong do not establish she is well positioned.

C. We Reserve the Remaining Requirements

On appeal, the Petitioner asserts she meets additional eligibility requirements under the *Dhanasar* analytical framework, but she has not satisfied *Dhanasar's* necessary second prong. Because this shortcoming is dispositive of the appeal, we reserve our opinion regarding the remaining issues. Where a case warrants a denial regardless of other eligibility considerations, it is unnecessary that we address those other considerations. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also Matter of Buri Mora*, 29 I&N Dec. 186, 188 (BIA 2025) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden.

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.