U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42204868

Date: APR. 22, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a civil 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).

SCOPS denied the petition, concluding that the record did not establish that a waiver of the job offer requirement is 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.

Matter of Dhanasar, 26 I&N Dec. 884.

II. ANALYSIS

SCOPS determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. Based on the evidence in the record of the Petitioner's master degree in civil engineering, we agree. The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest under the analytical framework set forth in *Matter of Dhanasar*. Regarding the Petitioner's eligibility for a national interest waiver, SCOPS determined that the Petitioner demonstrated the substantial merit of the proposed endeavor and that he is well-positioned to advance it. However, SCOPS found that the Petitioner did not establish the national importance of the proposed endeavor or that, on balance, a waiver of the job offer requirement would benefit the United States.

Based on our de novo review of the record, we agree with SCOPS that the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Matter of Dhanasar*. Specifically, we agree that the Petitioner has not sufficiently demonstrated the national importance of the proposed endeavor as required by the first *Dhanasar* prong, and we will dismiss the appeal on that basis.

The Petitioner's proposed endeavor is to own and operate three related companies to develop and implement "cutting-edge AI-driven solutions that enhance efficiency, accuracy, and collaboration within the construction sector." The Petitioner describes these as a software development company that will create "innovative applications using artificial intelligence, natural language processing, and machine learning;" an engineering company to ensure that those software products are tailored to meet the needs of architects, engineers, and construction professionals; and, finally, the third company will be a "strategic oversight company" to foster collaboration between the first two companies. The flagship product of these related companies is a "text-to-building" model that, the Petitioner claims, uses an intuitive natural language interface to make the design process accessible to non-experts, so that users can input simple, conversational text which is converted into detailed and optimized building designs.

On appeal, the Petitioner claims that SCOPS erred in the national importance analysis by requiring evidence to demonstrate an established impact, rather than a "potential prospective impact." The Petitioner also claims that SCOPS mischaracterized the Petitioner's product, and in doing so minimized its potential impact on the construction and civil engineering fields. The Petitioner asserts that the national importance of the proposed endeavor has been established because the endeavor aligns with federal priorities, because of the growing size of the global market for AI technology in construction, and because the Petitioner's product has received "industry recognition and validation" and been deployed in several settings.

In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances,

may have national importance. *Matter of Dhanasar*, 26 I&N Dec. at 889. Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

First, we address the Petitioner's claim that SCOPS mischaracterized the proposed endeavor. The Petitioner repeats his claim, previously presented to SCOPS in response to a request for evidence (RFE), that SCOPS has misunderstood the endeavor by treating the Petitioner's product as if he were providing software consulting services to individual clients, rather than creating a "software infrastructure that can be integrated, licensed, or embedded into the platforms used by thousands of firms, similar to ChatGPT." The Petitioner asserts that because the product is "platform technology," it is replicable and distributable and therefore has a greater potential prospective impact than a consultant offering software development services to clients. The Petitioner contends that because his product is a "platform-agnostic AI architecture," it provides flexibility, interoperability, cost-effectiveness, and has broad applicability across the industry.

We do not find support in the record for the Petitioner's claim that SCOPS misunderstood or mischaracterized the endeavor. We understand the distinction that the Petitioner makes between consulting services and the creation of a new technology product, such as the one the Petitioner is developing. Nevertheless, regardless of whether a company is offering consulting services or is licensing a technology product, in order to demonstrate national importance, the record must establish that the potential impact of the endeavor extends beyond those clients and the company to impact the field more broadly. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), www.uscis.gov/policy-manual ("[A] person developing a particular technology for use or sale by a given company may not be able to establish national importance based on evidence that this technology will have benefits for the company or its clients alone."). Moreover, we agree with SCOPS that the record does not establish the broader implications that would be consistent with national importance. The record does not establish, for example, widespread interest in adoption or licensing of the technology or that the technology stands to impact the development of similar technology by other companies. *See id.* Without sufficient evidence, the Petitioner's assertion that, because his product is a "platform-agnostic AI architecture," it will impact the "entire industry to build strategic independence, leverage the best available technology for specific tasks, and adapt quickly to evolving needs and innovations" is insufficient to satisfy the preponderance of the evidence standard. *See Matter of Chawathe*, 25 I&N Dec. at 376 (a petitioner should submit "relevant, probative, and credible evidence" to satisfy the standard of proof).

The Petitioner emphasizes on appeal that his product has received interest from executives in a structural and engineering software company that creates specialized software for civil engineering projects. The Petitioner claims that this interest indicates that the Petitioner's technology "has the potential to reach thousands of engineering firms simultaneously, thereby providing industry-wide benefits." These claims are not borne out in the record. The Petitioner submitted copies of text messages to schedule a meeting for the Petitioner to demonstrate "the functionality of the [AI] chat controlling" this company's software platform, a teleconference meeting invite, and a follow up email sent by the Petitioner. Although the Petitioner submitted evidence of this meeting, the Petitioner did not provide evidence of the company's commitment or intent to proceed with licensing the Petitioner's product. We do not agree that this evidence of a single meeting sufficiently demonstrates the

"widespread interest" in adopting the Petitioner's technology that would be consistent with national importance.

Similarly, the Petitioner claims that his product has "already seen real-world deployment," and that this is evidence of commercial demand. The Petitioner asserts that his product was deployed at [redacted] and at [redacted] But the record does not contain documentary evidence to support these claims. Moreover, even if the record did establish that the Petitioner's product had been tested or deployed by two potential clients, the Petitioner has not established that this level of interest would be consistent with national importance.

We also conclude that the evidence related to the global market for AI tools in the construction industry and the federal government's priorities related to AI are not sufficiently supportive of the proposed endeavor's national importance. The Petitioner cites on appeal to statistics about size of the global market for AI, the Trump Administration's goal to be at the forefront of AI, and the projected expansion of the market as "reflecting rapid adoption and escalating demand." The Petitioner contends his endeavor "directly addresses longstanding challenges in U.S. construction productivity, infrastructure efficiency, and global competitiveness" in AI development. However, in considering national importance, we focus on the "specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner did not submit evidence, such as letters from interested government agencies, discussing the Petitioner's specific proposed endeavor and its potential to impact the construction industry or the industry's use of AI tools, at a level consistent with national importance.

We agree that evidence related to the size of an industry and its growth can be helpful in establishing the potential need for or interest in technology products such as the one the Petitioner is developing. Primarily, however, this speaks to the substantial merit of the proposed endeavor, which we agree with SCOPS has been established. Additionally, while such evidence could also be a positive factor in determining national importance, it is not, by itself, sufficient for the Petitioner to meet his burden of proof. These documents do not discuss the Petitioner's specific proposed endeavor, and therefore do not help establish that it is of such a scale that it has the potential for a broad impact on that industry or that it would otherwise rise to the level of national importance. The size of the market overall does not establish, on its own, widespread interest in the Petitioner's product as he claims. As such, we conclude that this evidence is not sufficient to establish the proposed endeavor's national importance.

Finally, the Petitioner asserts that SCOPS used a heightened standard of review and misapplied *Matter of Dhanasar* as it relates to entrepreneurial claims. The Petitioner contends that SCOPS' reasoning demands "demonstrated national reach, existing industry dominance, or widespread current adoption." In support, the Petitioner cites the language in *Matter of Dhanasar* that petitioners need not show that their endeavors "are more likely than not to ultimately succeed." *Id.* at 890. But this language in our precedent decision does not relate to the national importance analysis; it refers to the second prong and the standard we use to evaluate whether a petitioner is well-positioned to advance their proposed endeavor.

Additionally, we do not find support for the Petitioner's claim that SCOPS used the wrong standard in adjudicating the petition. A petitioner does not need to establish *current* impact to demonstrate national importance, but as discussed above, the record must show that the prospective impact has the

potential to extend beyond the petitioner's clients and partners to broadly impact the field. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. Here, the record does not contain much of the specific evidence that we understand may be unique to and relevant in entrepreneurial national interest waiver petitions. *See generally* 6 *USCIS Policy Manual*, *supra* at (D)(6). For example, entrepreneurs may submit evidence of awards or grants from relevant entities, evidence of investments or binding commitments to invest by outside investors consistent with industry standards, or published material about the petitioner or their entity, to provide independent validation and support for a finding of the endeavor's substantial merit, its national importance, or the petitioner being well-positioned to advance the endeavor. *See generally id.* We conclude that the Petitioner's assertions about the potential of his product to transform the construction or civil engineering industry are not sufficiently supported by documentary evidence to meet the Petitioner's burden of proof. *See Matter of Chawathe*, 25 I&N Dec. at 375-76.

We acknowledge that the Petitioner intends for his proposed endeavor to provide a significant contribution to the civil engineering and construction industry. He states, for example, that "[w]hen software companies like [redacted] developed [redacted] or when [redacted] created [redacted], they weren't serving individual clients. They built infrastructure tools that transformed entire industries. My AI technology operates at this same infrastructure level, integrating with platforms used by thousands of structural engineering firms worldwide."

Nevertheless, we must consider the scope of the specific proposed endeavor, as established by the record. *See Matter of Dhanasar*, 26 I&N Dec. at 889. Here, the record shows that the Petitioner has established a company to develop an AI tool that he hopes to license to clients in the industry and that he has made progress in its development. Even if the Petitioner is successful in developing this tool, the record lacks sufficient evidence of widespread interest, novelty, or other evidence that would demonstrate a potential prospective impact outside of his company, clients, or partners that would rise to the level of national importance. We conclude that the Petitioner has not established that his proposed endeavor has national importance, as required by the first prong of the *Dhanasar* analytical framework.

III. CONCLUSION

Because the Petitioner has not met the requisite first *Dhanasar* prong, we conclude that he has not established that he is eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prongs. *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).

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.