U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37382101

Date: APR. 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a network security architect, 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. 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 Petitioner did not demonstrate that he merits a discretionary waiver of the job offer requirement 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 that while the Petitioner established that his proposed endeavor has substantial merit, he did not establish that his proposed endeavor is of national importance, that he is well-positioned to advance his proposed endeavor, or that waiving the job offer requirement would benefit the United States.

The first prong of the *Dhanasar* analytical framework, 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.*

The Petitioner asserts that his proposed endeavor is to develop sophisticated network architecture solutions that comprehensively addresses cyber threats such as DDoS attacks and ransomware. The record contains a letter from the Petitioner's current employer, [redacted], which states "[the Petitioner] is working full time for our clients [redacted] payroll. We are planning to use [the Petitioner's] expertise in Oracle Cloud, Networking, Network Security, and Artificial Intelligence for our many Fortune 500 clients and government agencies." The petitioner also notes that he has a pending provisional patent application for "his design of a [redacted] which could have prevented cyber-attacks like those on October 10, 2022, against multiple U.S. airport websites that were interrupted by Russian attackers." In addition, the petitioner asserts that his endeavor aligns with the U.S. government initiatives on improving the nation's cybersecurity.

On appeal, the Petitioner asserts that SCOPS erred by overlooking "multiple examples which establish the substantial merit and national importance which cyber security has in the field of information technology, not nationally, but globally." Specifically, the Petitioner highlights an assessment submitted by a [redacted] professor relating to the Petitioner's qualifications and expertise in the field of cybersecurity as well as the National Cybersecurity Strategy released by the Biden-Harris Administration aimed at securing the full benefits of a safe and secure digital ecosystem for all Americans.

The Petitioner relies primarily on the critical role of cybersecurity to the United States' economy, infrastructure, and national security. We first note here that the Petitioner's experience and abilities in his field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. A petitioner may present a proposed endeavor that focuses on an area with significant merit but still fall short of demonstrating that their specific endeavor has a potential prospective impact in that area that is commensurate with national importance. We recognize the value of cybersecurity and the positive economic effects of advanced technologies to the U.S. economy; however, being employed

at an information technology services company as a network security architect, whose work involves the development of network architecture solutions addressing cyber threats, is insufficient to establish the national importance of the Petitioner's proposed endeavor. Despite the Petitioner's work for his employer and his employer's high-profile clientele, the Petitioner must demonstrate that his own tasks rise to the level of a nationally important endeavor. While the Petitioner's endeavor may assist his current client, [redacted], and [redacted] payroll operations, the Petitioner has not established that his endeavor alone, implemented for [redacted] and its clients have national implications within the cybersecurity field.

The Petitioner also argues that there is a shortage of cyber security expertise in the United States, and the demand for an experienced and qualified cyber workforce has never been greater which militates in favor of waiving the labor certification. In *Dhanasar*, we stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* However, the Petitioner's availability as a cybersecurity expert and a shortage of cyber security experts in the United States does not render the proposed endeavor nationally important under the *Dhanasar* framework. Further, the Petitioner has not demonstrated any specific economic impact attributable to his particular role as a network security architect, and the evidence does not show that his proposed work stands to offer economic benefits beyond his employer and their clientele. Additionally, the Petitioner has not shown that his endeavor has significant potential to employ U.S. workers. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to the Petitioner's specific work, the Petitioner has not shown that the benefits to the U.S. regional or national economy resulting from his endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

As the Petitioner has not met the requisite first 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. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third prongs. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); *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).

ORDER: The appeal is dismissed.