U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42070346

Date: APR. 29, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an individual who works in the field of data security and compliance, 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 Petitioner qualified for classification as an individual of exceptional ability, but that he had not established that a waiver of the required job offer, and thus of the 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:

[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).

- 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

A. Eligibility for Second Preference (EB-2) Classification

SCOPS concluded that the Petitioner qualifies as a professional holding an advanced degree.[2] The record supports that conclusion. The record includes documentation of a five-year program of study in law from a university in Brazil that is equivalent to a U.S. baccalaureate degree, as well as documentation confirming that the Petitioner has at least five years of progressive, post-degree work experience. The Petitioner qualifies as an advanced degree professional. The remaining issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest

B. Eligibility for a National Interest Waiver

The Petitioner specializes in data security and compliance. His proposed endeavor is to create a company dedicated to legal compliance for the protection, use, and exposure of personal data of individuals and organizations, beginning with a focus on the educational sector. He stated that his company would grow to service additional sectors. He reiterates on appeal that his "services were designed to operate in a sector-neutral, nationally scalable manner, addressing vulnerabilities faced by small and medium-sized enterprises (SMEs) across the country."

Although SCOPS determined that the proposed endeavor has substantial merit and that the Petitioner is well positioned to advance the endeavor, SCOPS concluded the record did not establish that the endeavor is of national importance or that, on balance, it would be beneficial to the United States to waive the job offer requirement and, thus, the labor certification. On appeal, the Petitioner asserts that SCOPS' decision consists of conclusionary statements without analysis of the evidence of record. Upon review, for the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his endeavor under the first prong of the *Dhanasar* analytical framework.

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.* The relevant question is not the importance of the industry or profession in

[2] The record does not show that the Petitioner claimed to qualify for the EB-2 classification as an individual of exceptional ability.

which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* In *Matter of Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also 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.* at 890.

To provide context for his proposed endeavor, the Petitioner submitted a report assessing global risks published by the World Economic Forum, as well as information about cybersecurity and data breaches. This documentation highlights important issues regarding data security and evolving technologies, and the Petitioner emphasizes that the alignment of his endeavor with cybersecurity initiatives demonstrates its national importance. On appeal, the Petitioner emphasizes that his endeavor is not a "conventional private enterprise," but a "public-benefit-driven company designed to address . . . the protection of Americans' personal data against increasingly sophisticated cyber privacy threats." However, it is not the overall importance of the industry, field, or profession in which an individual intends to work, but the particular endeavor on which an individual intends to embark that we consider in evaluating whether it is of national importance. *Id.* at 889. Although the Petitioner intends to work in an important field, we assess the specific endeavor he intends to undertake. Here, the Petitioner intends to create a company providing data protection services through customized solutions adapted to the needs of schools, healthcare facilities, and businesses.

The Petitioner submitted a business plan offering an overview of the services he intends to provide, including compliance consulting, policy development and implementation, data protection audits, and training awareness programs. The company would focus on developing advanced data protection and privacy governance solutions aimed at safeguarding educational infrastructures and sensitive data of students, educators, and institutions. The business plan states that his services will incorporate security measures, such as encryption and multi-factor authentication, and continuous vulnerability monitoring. The business plan also discusses state laws concerning personal data and privacy, state and federal regulations for educational institutions concerning data protection, and data breaches. However, much of the record discussing his proposed endeavor is not corroborated by supporting evidence.

For instance, the Petitioner stated that the "core" of his business strategy "is the development of a sophisticated Risk Assessment Platform . . . designed to swiftly identify and respond to cyber threats specific to educational environments . . . ." The platform "incorporates robust data encryption mechanisms and multi-factor authentication to ensure privacy protection and compliance with stringent data protection regulations . . . ." But the Petitioner has not provided details or corroborating evidence concerning the platform around which he will build his business. In addition, he stated that the strategic framework of his business encompasses several elements to address privacy violations in the educational sector, including the integration of cutting-edge technology and targeted educational initiatives, and the company "actively promotes cybersecurity awareness and best practices through specialized training programs targeted at students, educators, and parents." But he has not submitted evidence of programs he is developing or elaborated on what or how they would incorporate specific technologies.

In *Matter of Dhanasar* we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *See Matter of Dhanasar* at 893. On appeal, although he points his business plan's "multifaceted strategy," including education and awareness programs developed with schools and universities to teach privacy standards and data literacy, he has not provided any details concerning the programs or clarified how they would have a broader impact on cybersecurity education. Also included in his multifaceted strategy is reference to a risk assessment platform powered by artificial intelligence (AI), and continuous monitoring and incident response systems using advance technologies for real-time breach prevention and improvement. However, neither the business plan nor other documentation included in the record elaborates on a platform that the Petitioner has developed to form the basis of his endeavor. Further, he refers to the principles of his methodology as "universally applicable" to any business processing personal data, but he has not explained how his company would have a national-level impact beyond general assertions. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. He has not provided sufficient evidence to demonstrate that his individual company's consultancy services would have an impact at a scale commensurate with national importance.

We observe that the business plan provides vague references to logistical requirements for a functioning company, such as recruiting talent and acquiring equipment. The business plan gestures to intentions to form strategic partnerships with technology companies, internet service providers, and educational organizations, stating that the company will seek collaborations with governmental entities to align with data protection initiatives and regulations. But the Petitioner has not explained, for example, what qualifications would be required for positions providing training for any specific educational programs, nor has he clarified how his company would gain the access or obtain the influence necessary to initiate specific partnerships and collaborations. Although such considerations are relevant to assessing whether an individual is well positioned to advance an endeavor under *Dhanasar's* second prong, they are also pertinent to evaluating the prospective potential impacts of the endeavor.

Finally, the Petitioner has not explained how he would undertake an endeavor of a scale that would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *See Matter of Dhanasar*, 26 I&N Dec. at 890. He provided a business plan showing that his company will employ 24 employees by its fifth year of operation, generating over $1.3 million in payroll expenses and hundreds of thousands of dollars in net revenue each year. The business plan, however, does not explain how these forecasts were calculated or adequately clarify how these projections will be realized, nor has the Petitioner provided independent evidence or otherwise explained how his business would create jobs at a level that would have a significant impact in a region or have a prospective national impact on a specific field. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner has not demonstrated that his proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects. It is not clear how a business of the size and scope described in the business plan would have national or global implications. The Petitioner has not provided sufficient evidence to show that he would employ a significant population of workers in a particular region, nor has he shown that his proposed endeavor would offer substantial economic benefits through employment levels, business activity, or tax revenue. As such, the record

does not demonstrate that the prospective benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by the precedent decision. *See Matter of Dhanasar*, 26 I&N Dec. at 890.

The record does not establish the national importance of the proposed endeavor as required by the first prong of *Matter of Dhanasar*. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

The Petitioner has not demonstrated that the proposed endeavor has national importance. As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

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.