U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40528227

Date: DEC. 5, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a developer of complex data models in the industrial engineering field, requests classification under the employment-based, second-preference (EB-2) immigrant visa category and a waiver of the category's job-offer requirement. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(B)(i), 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) has discretion to excuse job-offers in this category – and thus the need for certifications from the U.S. Department of Labor (DOL) – if petitioners demonstrate that waivers of these U.S.-worker job protections would be "in the national interest." *Id.*

Service Center Operations (SCOPS) denied the petition. Although finding the Petitioner eligible for EB-2 classification, SCOPS concluded that he did not demonstrate that a waiver would serve the national interest. The Petitioner contends that – in finding insufficient evidence of his proposed endeavor's "national importance," that he is "well positioned" to advance the endeavor, and a waiver's overall benefit to the United States – SCOPS misunderstood evidentiary requirements and disregarded proof.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we agree with SCOPS that he has not established his proposed endeavor's national importance. We will therefore dismiss the appeal.

I. LAW

To establish eligibility for national interest waivers, petitioners must first demonstrate their qualifications for the EB-2 category, either as members of the professions holding "advanced degrees" or their equivalents, or as aliens of "exceptional ability" in the sciences, arts, or business. *See* section 203(b)(2)(A) of the Act. To protect jobs for U.S. workers, this immigrant visa category generally requires prospective U.S. employers to offer aliens work and to obtain DOL certifications to permanently employ them in the country. *See* section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D). Petitioners may avoid the job-offer and labor-certification requirements by

demonstrating that waivers of the U.S.-worker protections would be "in the national interest." Section 203(b)(2)(B)(i) of the Act.

Neither the Act nor regulations define the term "national interest." So, to adjudicate these waiver requests, we have established a framework. If otherwise qualified as advanced degree professionals or aliens of exceptional ability, petitioners may warrant waivers of the job-offer and labor-certification requirements by demonstrating that:

- Their proposed U.S. work has "substantial merit" and "national importance;"
- They are "well positioned" to advance their intended endeavors; and
- On balance, waivers of the job-offer and labor certification requirements would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. 884, 889-91 (AAO 2016); *see generally* 6 *USCIS Policy Manual* F.(5)(D)(1), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Petitioner and His Proposed Endeavor

The record indicates that the Petitioner earned a bachelor of science degree in applied mathematics from a university in his home country of China. Later, in the United States, he obtained a master of science degree in operations research and a doctorate in industrial engineering. During his U.S. studies, he worked part-time as a research assistant. He has first- or co-authored more than 20 scholarly articles, presented at academic conferences, and "peer reviewed" others' research papers before their publication.

For the past two years, the Petitioner has worked as a senior data scientist in the United States for a multinational company that designs, develops, and makes ceramic products for industrial clients. In this role, he stated that he: develops generative artificial intelligence (AI) techniques to discover higher quality and more environmentally friendly manufacturing materials; applies optimization models and machine learning techniques to solve industrial problems; and collaborates with information technology teams to design and implement data infrastructure improvements.

The Petitioner stated that his proposed endeavor is "to develop explainable and high-performance models for use in social technical systems, manufacturing systems, and smart experimentation systems used for generating new materials in order to solve engineering issues and capture useful domain knowledge." He added:

> I want to emphasize that my proposed endeavor is distinct from my position of employment. However, I am providing my employment information to confirm my commitment and capacity to advance the proposed endeavor in my employment. This position with [my employer] serves as my chief opportunity to pursue my proposed endeavor at this time.

In response to SCOPS' request for additional evidence (RFE), the Petitioner indicated his commitment to continuing his industrial engineering research "as a long-term career focus." He stated that "[m]y current position offers a unique environment to apply and extend my expertise in explainable and high-performance models within industrial contexts."

A petitioner should "clearly lay out … whether the endeavor will be furthered through the course of the person's duties at a particular employer or some other way." 6 *USCIS Policy Manual* F.5(D)(3). Because the Petitioner states his long-term commitment to advancing his venture through his current employment, his endeavor effectively constitutes continuing to perform his current job duties.

The record supports SCOPS' findings that:

- The Petitioner qualifies for EB-2 classification as an advanced degree professional; and
- His proposed endeavor has substantial merit.

We will next review SCOPS' determination that the Petitioner did not demonstrate his proposed endeavor's national importance.

B. National Importance

When determining whether a proposed endeavor has national importance, USCIS must focus on the particular venture, specifically on its "potential prospective impact." *Matter of Dhanasar*, 26 I&N Dec. at 889. "An undertaking may have national importance, for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* Also, "[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.

> Ultimately, 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.

6 *USCIS Policy Manual* F.5(D)(3).

On appeal, the Petitioner contends that he demonstrated his proposed endeavor's national importance by submitting evidence that his work would advance: industrial modeling and simulations; machine learning; generative AI systems; and multimodal and large language models, "all of which are formally recognized as critical and emerging technologies." *See* 6 *USCIS Policy Manual* F.5(D)(4) (recognizing the significance of endeavors that advance STEM [science, technology, engineering, and mathematics] fields, "especially in focused critical and emerging technologies").

But the Petitioner has not demonstrated that the benefits of his on-the-job research would have implications beyond his employer and its customers.

> Benefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a person's endeavor has national importance. At issue is whether the petitioner can demonstrate that the person's own individual endeavor stands to have broader implications, such as for a field, a region, or the public at large.

6 *USCIS Policy Manual* F.5(D)(3).

In his RFE response, the Petitioner argued that his on-the-job research "not only demonstrates strong practical success in industrial applications but also holds significant value for academic research." He stated that an application he developed on the job "was accepted to be presented in two prominent conferences." He also stated that he is "actively working to disseminate … findings through peer-reviewed journal publications." Previously, he stated "that my research at [my employer] is promoted at the national level through [the company]'s eight cross-functional research centers."

The Petitioner, however, provides no further information about his employer's cross-functional research centers or whether people outside the company would have access to them. Nor does he otherwise explain how his original findings at work would become available to academic researchers in the field. He did not provide any examples of research he published stemming from his current employment. In his RFE response, he indicated that he submitted evidence that two academic conferences accepted presentations about the application he developed at work. But the record lacks the referenced evidence. Further, a letter from his employer supporting his proposed endeavor does not indicate whether the company would allow him to publish original findings stemming from his research at work. *See Markham Concepts, Inc. v. Hasbro, Inc.*, 1 F.4th 74, 79–80 (1st Cir. 2021) ("[A] work created by an employee belongs to the employer, who is then viewed as the author and copyright holder.") In general, the Petitioner has not established how others in the field beyond his employer would become aware of his on-the-job research. *See* 6 *USCIS Policy Manual* F.5(D)(3) (stating USCIS' analysis "considers whether the petition contains substance that explains and substantiates how working in the proposed endeavor meets the national importance standard").

The Petitioner contends that recommendation letters on his behalf also establish the purported national importance of his proposed endeavor. For example, a letter from a scientific journal's chief editor states:

> Sustaining the U.S. competitive edge requires adapting cutting-edge models for industrial use. This importance is evident when considering the difficulties in customizing advanced models for various critical industries, which promotes efficiency and creativity. [The Petitioner]'s discoveries are massively helpful for matching models with relevant problems.

Also, the Petitioner's group leader at his current employer stated that his duties:

> demonstrate that high-performance modeling is a new engine to progress in the manufacturing sector and industrial formulation development. American industry will be benefited from the advanced, interpretable data modeling approaches to remain a global leader in material design and manufacturing.

But these letters do not explain how others in the industrial engineering field beyond the Petitioner's employer, its employees, and its customers would learn of the research he would conduct as part of his employment. Also, most of the letters primarily discuss applications of his prior research outside the industrial engineering field. For example, the scientific journal editor described the Petitioner's prior model of COVID-19 pandemic policies and their effectiveness as "critical to enhancing the U.S.'s design and implementation of public health policies."

The Petitioner contends that, when considering whether his proposed endeavor has national importance, SCOPS imposed novel evidentiary requirements. SCOPS found that "the record is not supported by any letters from interested U.S. government agencies or quasi-governmental entities in the United States" and that media articles the Petitioner submitted "do not discuss any details relating to the specific endeavor and its impact."

We agree with the Petitioner that, to demonstrate his venture's purported national importance, he did not necessarily have to submit articles about his specific proposed endeavor or letters from federal agencies. *See generally* 6 *USCIS Policy Manual* F.5(D)(5) ("While not required, letters from interested government agencies or quasi-governmental entities in the United States (for example federally-funded research and development centers) can be helpful evidence.") But, because the Petitioner has not demonstrated that his on-the-job research would have national implications in the industrial engineering field beyond his employer, the errors are harmless. *See Butt v. Keisler*, 506 F.3d 86, 90 (1st Cir. 2007) (defining a "harmless error" as one "which did not affect the outcome"); *see generally Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing cases regarding harmless errors).

The Petitioner also argues that funding of his prior research by the National Science Foundation (NSF) demonstrates the national importance of his proposed endeavor.[1] He states: "This funding is reserved solely for research directed at advancing the national interest."

The Petitioner documented that Congress established the NSF to: promote scientific progress; advance national health, prosperity, and welfare; and secure national defense. But it does not necessarily follow that every NSF-funded project has "national importance" as defined in *Dhanasar* or that a prior NSF-funded project reflects on the significance of a new proposed endeavor. Rather, USCIS determines national importance on a case-by-case basis. *See Matter of Dhanasar*, 26 I&N Dec. at 889 ("The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake."); *see generally* 6 *USCIS Policy Manual* F.5(D)(3). Here, for example, the Petitioner has not demonstrated that NSF partially funded his prior research because of the importance of his data model's incorporation of micro-level socio-cultural structures rather than the project's COVID-19 subject matter.

For the foregoing reasons, the Petitioner has not demonstrated that his proposed endeavor has national importance. We will therefore affirm SCOPS' finding.

[1] The record indicates that the NSF funded part of the Petitioner's prior research regarding COVID-19 policies and identifies his co-author as the project's lead investigator.

C. The Remaining *Dhanasar* Prongs

To obtain a national interest waiver, a petitioner must satisfy all three prongs of our *Dhanasar* analysis. *Matter of Dhanasar*, 26 I&N Dec. at 889. Because the Petitioner did not demonstrate the claimed national importance of his proposed endeavor under *Dhanasar*'s first prong, we need not determine whether he met the remaining two prongs. We will therefore reserve consideration of his appellate arguments that he is well positioned to advance his proposed endeavor and that, all things considered, a waiver would benefit the United States. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

III. CONCLUSION

The Petitioner has not demonstrated that his proposed endeavor has national importance. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.

NOTICE: This is the final decision in this matter. A motion's filing would not postpone the decision's effect. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are unlawfully present, or who are otherwise inadmissible or deportable, may receive Forms I-862, Notices to Appear, placing them in removal proceedings. *See* section 240 of the Act, 8 U.S.C. § 1229a. Removal proceedings may result in an alien's removal from the United States and ineligibility for future U.S. visas or other immigration benefits.