U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40785413

Date: DEC. 22, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a research/design engineer, seeks to continue his work that supports the U.S. defense, aerospace, and semiconductor industries. He 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 protections would be "in the national interest." *Id.*; *see also Mousavi v. USCIS*, 828 F. App'x 130, 132 (3d Cir. 2020) (holding that grants of national interest waivers are discretionary).

Service Center Operations (SCOPS) denied the petition. SCOPS concluded that, although the Petitioner qualifies for EB-2 classification as a member of the professions holding an "advanced degree," he did not demonstrate that a waiver would serve the national interest. On appeal, the Petitioner contends that – in finding insufficient evidence that his proposed endeavor has "national importance," he is "well positioned" to advance the endeavor, and, on balance, a waiver would benefit the United States – SCOPS misapplied law and disregarded evidence.

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 conclude that he has demonstrated that a waiver would be in the national interest. We will therefore sustain 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 aliens of "exceptional ability" in the sciences, arts, or business. *See* section 203(b)(2)(A) of the Act. To protect positions for U.S. workers, this immigrant visa category generally requires prospective U.S. employers to offer aliens jobs and to obtain DOL certifications to permanently employ them in the country. 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
- All things considered, 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 shows that the Petitioner has a bachelor's degree in electronic information science and technology; a master's degree in radio physics; and a doctoral degree in electromagnetics and microwave technology. He worked abroad as an assistant university professor and a company's chief technology officer. Now in the United States, he has served as a post-doctoral researcher and a senior research/design engineer.

The Petitioner proposes to continue research and development in a highly specialized technical field in the United States.

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 first review SCOPS' finding of insufficient evidence that the Petitioner's proposed endeavor has 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).

SCOPS found that the Petitioner's evidence "fails to demonstrate the potential prospective impact of [his] projects beyond his experience while attending school and working."

However, upon review and consideration of the entire record, evidence and letters from experts support the extension of the Petitioner's contributions beyond his employer to reach the level of national importance.

In *Dhanasar*, we found that a proposed endeavor to research air-and-space propulsion had national importance. *Matter of Dhanasar*, 26 I&N Dec. at 892. We cited expert letters from people holding senior positions in academia, government, and industry describing the research's importance relative to U.S. strategic interests and articles about congressional interest in the field and the potential significance of U.S. advances in the area. *Id.* The Petitioner here has submitted similar evidence showing the significance of his proposed research and development.

The Petitioner has demonstrated that his proposed endeavor has national importance. We will therefore withdraw SCOPS' contrary finding.

C. Well Positioned

This prong of our *Dhanasar* framework focuses on petitioners. *Matter of Dhanasar*, 26 I&N Dec. at 890. They need not demonstrate that their proposed endeavors are likely to succeed. *Id.* But they must establish that they are well positioned to advance their ventures. *Id.*

Relevant factors include:

- A petitioner's 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. Petitioners should submit evidence to: document their past achievements; explain how those accomplishments relate to their proposed endeavors; provide evidence of progress towards achieving their ventures; and corroborate projections related to their undertakings. 6 *USCIS Policy Manual* F.5(D)(3).

SCOPS found that the Petitioner's "educational accomplishments, professional qualifications, and experience are insufficient to demonstrate that he is well positioned to advance the specific proposed endeavor." SCOPS noted that the air-and-space-propulsion researcher in *Dhanasar* had two master's degrees and a doctorate in relevant fields. *See Matter of Dhanasar*, 26 I&N Dec. at 891.

Dhanasar, however, does not require researchers to have more than two graduate degrees to qualify for national interest waivers. *Dhanasar* found the air-and-space-propulsion researcher's educational background sufficient to advance his proposed endeavor without stating a minimum educational requirement. *See Matter of Dhanasar*, 26 I&N Dec. at 892. While the Petitioner here has one less master's degree than the researcher in *Dhanasar*, he also has sufficient education to advance his proposed endeavor. Like the researcher in *Dhanasar*, the Petitioner has a doctorate and a master's degree in relevant fields. Also like the researcher in *Dhanasar*, the Petitioner has experience conducting research that supports U.S. initiatives to maintain technological competitiveness in strategic industries and submitted evidence that he played an important role in a project funded by the U.S. government. *Id.* Further, letters detail the significance of the Petitioner's prior work.

Like the researcher in *Dhanasar*, the Petitioner's education, experience, expertise in his field, and significant roles in research projects position him well to continue his proposed development endeavor. *See Matter of Dhanasar*, 26 I&N Dec. at 893.

The Petitioner has demonstrated that he is well positioned to advanced his proposed endeavor. We will therefore withdraw SCOPS' contrary finding.

D. A Waiver's Benefits to the United States

Dhanasar's final prong requires us to balance the pros and cons of granting the Petitioner a national interest waiver.

> On the one hand, Congress clearly sought to further the national interest by requiring job offers and labor certifications to protect the domestic labor supply. On the other hand, by creating the national interest waiver, Congress recognized that in certain cases the benefits inherent in the labor certification process can be outweighed by other factors that are also deemed to be in the national interest.

Matter of Dhanasar, 26 I&N Dec. at 890.

In performing this analysis, USCIS may consider whether:

- in light of the nature of the alien's qualifications or proposed endeavor, it would be impractical for them to either secure a job offer or obtain a labor certification;
- even assuming that other qualified U.S. workers are available, the United States would still benefit from the alien's contributions; and
- the national interest in the alien's contributions is sufficiently urgent to warrant forgoing the labor certification process.

Id. at 890-91. Taken together, the factors considered must indicate that, on balance, it would benefit the United States to waive the requirements of a job offer and labor certification. *Id.* at 891.

SCOPS concluded that the Petitioner did not demonstrate that his knowledge or skills are difficult to state on a labor certification application or that his contributions are so valuable that would benefit the United States even if U.S. workers were available.

However, considering the factors together, the record shows that a waiver based on the highly specific facts of this petition would benefit the United States. *See Matter of Dhanasar*, 26 I&N Dec. at 893.

III. CONCLUSION

Contrary to SCOPS' findings, the Petitioner has demonstrated that: his proposed endeavor has national importance; he is well positioned to advance it; and, on balance, a waiver would benefit the United States. He has established eligibility for and otherwise merits a national interest waiver as a matter of discretion. We will therefore reverse SCOPS' contrary decision.

ORDER: The appeal is sustained.