U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39908547

Date: JAN. 07, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a computer scientist carrying out her proposed endeavor as an incumbent engineering associate with her employer, 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).

Service Center Operations (SCOPS) denied the petition, concluding the record did not establish that a waiver of the required job offer, and thus of a 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 he or she is 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, he or she must then demonstrate that he or she merits 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;

[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 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

SCOPS observed that the Petitioner was eligible for EB-2 classification as an individual who is a member of the professions holding an advanced degree. At the time of filing, the Petitioner submitted her signed statement describing her proposed endeavor and future plans, letters of recommendation, academic credentials, copies of articles published in scholarly publications and evidence of citations to the work, evidence describing the Petitioner's peer review activities, purported funding sources for her research, documents supporting the Petitioner's bibliometric assertions, and other government policy and industry articles and reports. In response to the request for evidence (RFE), the Petitioner submitted an updated signed statement describing her proposed endeavor and future plans that provided more detail about her endeavor's subject matter, as well as additional copies of articles published in scholarly publications and evidence of citations to the work, new documents supporting the Petitioner's bibliometric assertions, and other government policy and industry articles and reports.

SCOPS denied the petition, concluding that the Petitioner's substantially meritorious[2] proposed endeavor did not rise to a level of national importance as required by the first prong of *Dhanasar*. And whilst SCOPS determined the Petitioner was well-positioned to advance the proposed endeavor, SCOPS also concluded on balance of applicable factors that a waiver of the job offer, and thus a labor certification, would not be beneficial to the national interest.

A. National Importance

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 in the national importance determination is not the importance of the field, industry, or profession in which the individual will work. Instead, we focus on "the specific endeavor that the foreign national proposes to undertake."

The Petitioner claims that SCOPS did not sufficiently consider the totality of the evidence submitted. In particular, the Petitioner expresses SCOPS experienced "confusion" and conflated her proposed endeavor with her employment. Specifically, the Petitioner objects to SCOPS' characterization of her proposed endeavor as "engineering associate." The Petitioner states that "engineering associate" is

[2] The Petitioner states on appeal that SCOPS' conclusion that her proposed endeavor was substantially meritorious is "indefensible and incorrect on its face." Simultaneously, the Petitioner avers on appeal that "the preponderance of the evidence establishes that [the Petitioner's] proposed endeavor is of substantial merit" because SCOPS' conclusion was based on the "initially submitted evidence and the evidence provided in response to the USCIS-issued RFE." Setting aside this apparent incongruency, we conclude the Petitioner's proposed endeavor is substantially meritorious upon our de novo review.

her job which has general duties whilst her endeavor is more detailed and ostensibly falls within the "computer scientist" occupation she listed on the Form I-140.

The Petitioner initially described her endeavor as a proposal to "develop advanced computer science techniques for enhancing information processing and data analysis across various domains in order to enhance decision-making processes and enable more nuanced insights into complex data." She further expressed an intention to "research with former co-authors and lab mates" focusing on "developing new algorithms for keyphrase extraction and knowledge integration, as well as analyzing social medial language to detect misinformation and biases" and "publish [the] findings in peer-reviewed journals and present them at international conferences."

The conduit she proposed utilizing to house and facilitate her endeavor was her employment as an "engineering associate at [redacted]." The Petitioner did "emphasize that [her] proposed endeavor is distinct from [her] position of employment." But she also stated her proposed endeavor "aligns closely" with her employment and that her "current [employment responsibilities] are relevant to [her] proposed endeavor [and] are central to [her] research goals." The Petitioner further asserts that her employment duties "are relevant to [her] proposed endeavor because they require the application of advanced data analysis and engineering techniques..." The Petitioner described her duties as "developing and maintaining proprietary software that drives innovation and automation within the firm," "building data reporting and analytics tools," and working with peers to "improve data-driven decision-making processes."

In response to SCOPS' RFE, the Petitioner further clarified that her proposed endeavor would feature a focus on "improving the interpretability, reliability, and ethical alignment of artificial intelligence (AI)-driven systems that process and analyze data at scale" to "enhance natural language processing (NLP) methods to better extract key information, assess sentiment, and incorporate human oversight into machine learning workflows." In her supplemental statement, the Petitioner identifies "advancing AI safety and trust in digital communication," "enhancing human-ai collaboration in high-stakes decision-making," "economic impact and workforce development" by fostering "AI-driven roles," "national security and AI governance" as broader implications permeating from her performance of her proposed endeavor. The Petitioner stated her proposed research aspired to "fortify AI safety, improve decision-making reliability, and contribute to AI workforce development..." The Petitioner advocated for the proposition that her endeavor ultimately "supports more informed and trustworthy decision-making" in "public health, national security, and digital communications." The Petitioner also described three "research efforts" that "highlighted the implications of her research in pursuit of the proposed endeavor." She stated she intends to collaborate with other researchers and practitioners. She also expects that her research work will be published in scholarly articles and presented at conferences.

The Petitioner emphasizes on appeal that SCOPS' use of the term "engineering associate" at various points in its decision when referring to the Petitioner's endeavor indicates that SCOPS improperly conflated her employment with her endeavor. But we do not agree. SCOPS' reference to "engineering associate" does not carry the adjudicative significance that the Petitioner ascribes to it because SCOPS' decision quotes extensively from the Petitioner's signed statements describing her proposed endeavor.

Moreover, whilst the Petitioner stresses on appeal that "there is not a single statement of the proposed endeavor in the record that mentions an employer," her signed statement included in her initial petition filing indicated that she intended to "continue pursuing [her] proposed endeavor as an engineering associate at" her current employer. Or in other words, the Petitioner's proposed endeavor is prosecuted by her performance of the duties of an engineering associate at her employer. But, the record does not adequately link how her "develop[ment of] advanced computer science techniques for enhancing information processing and data analysis" performed by "developing and maintaining" her employer's "proprietary software" has national or even global impact or implicates broader matters rising to a level of national importance in "advancing AI safety and trust in digital communication," "enhancing human-ai collaboration in high-stakes decision-making," "economic impact and workforce development" by fostering "AI-driven roles," and "national security and AI governance."[3] The Petitioner states that she plans to disseminate her research findings through research papers and collaborations with labs at industry and academic institutions. But, the totality of the evidence in the record does not indicate where her plans of dissemination fit in the overall promotion of her proposed endeavor by and through the conduit of her employment which she described "aligns closely" with her research plans and that her "current [employment responsibilities] are relevant to [her] proposed endeavor [and] are central to [her] research goals."

Instead, it appears that the main benefits of the proposed endeavor will flow to the employer benefitting from the employment duties the Petitioner identifies are the conduit to her performance of her proposed endeavor. Benefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a petitioner's endeavor has national importance.[4] *See generally* 6 *USCIS Policy Manual*, F.5(D)(3), https://www.uscis.gov/policy-manual.

As the Petitioner stated, the pursuit of her proposed endeavor is tied to her "plan to continue…as an engineering associate" at her employer. And her work pursuing her proposed endeavor requires "developing and maintaining proprietary software that drives innovation and automation within" the employer. The record does not persuasively demonstrate that "developing and maintaining proprietary software that drives innovation and automation within" the employer has national or even global impact or broader implications rising to a level of national importance in in "advancing AI safety and trust in digital communication," "enhancing human-ai collaboration in high-stakes decision-making," "economic impact and workforce development" by fostering "AI-driven roles," and "national security and AI governance."

Moreover, the Petitioner has not sufficiently supported her claims of the potential prospective impact of her intended research work. Her statement provides general summaries of goals such as "enhancing AI [artificial intelligence] trustworthiness though sentiment-aware NLP [natural language

[3] We note the Petitioner did not claim her proposed endeavor rose to a level of national importance "due to a shortage of professional in the industry."

[4] There is no requirement that a proposed endeavor's national, or even global, impact or broader implications arise from techniques or methods described as "innovative" or "distinct" such they "represent an improvement in the field" or that implications be "broad, far-reaching" and "extend[ing] beyond" the "immediate professional sphere" of the Petitioner to "address urgent national interests." We stated in *Dhanasar* that "we consider [a proposed endeavor's] potential prospective impact." As described above, that potential prospective impact is diminished when benefits from an endeavor flow to a specific employer or are otherwise narrowly described without demonstrating national, or even global, impact or broader implications rising to a level of national importance.

processing]," "human-guided AI," and "mitigating AI-generated misinformation and bias in automated content." The summaries of her intended research projects make broad claims, without persuasive corroborating evidence, that her work would have broader implications that "enhance decision-making processes and enable more nuanced insights into complex data" through "information processing and data analysis across various domains." A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. But the Petitioner has not done so here. Instead, much of the evidence in the record focuses on describing nuances in the field of artificial intelligence. For example, the Petitioner submitted several articles describing [redacted] and a performance of a generative artificial intelligence chatbot answering questions about gross anatomy. Although these articles contributed to demonstrating the importance of the field within which the Petitioner occupies space, they do not demonstrate the national importance of the Petitioner's specific work. Or in other words, whilst this may demonstrate the substantial merit of the proposed endeavor it does not support or demonstrate its potential prospective impact nationally, or even globally, or through broader implications rising to a level of national importance. The record does not sufficiently demonstrate how the articles relate to the specific endeavor the Petitioner intends to undertake and how the articles support the national, or even global, impact the proposed endeavor will exert or identify any broader implications sprouting forth from the proposed endeavor in a manner elevating to a level of national importance. For example, the record does not adequately identify how the articles support the Petitioner's proposed endeavor's projects involving "designing and optimizing data pipelines, ensuring efficient data collection, storage, and retrieval processes, and conducting data analysis" contribute national, or even global, impact or broader implications ascending to a level of national importance.

The Petitioner notes on appeal that her "past work has no bearing whatsoever on the national importance of her proposed endeavor" (emphasis in original removed). The Petitioner's "past work" is described in recommendation letters she submitted with her petition. The Petitioner's response to SCOPS' RFE questioned the "dismissal of the valued of the letters submitted by" her to show her eligibility for the criterion requiring her to demonstrate the national importance of her proposed endeavor. The Petitioner asserted in response to the RFE that the content of the letters "corroborated and contextualized" other pieces of evidence in the record such as "the National Security Strategy and peer-reviewed scholarly articles to substantiate the urgent national importance of the matters addressed" by her research.

However, whilst making general conclusory statements without adequate support in the record, such as claims the Petitioner's "work enhancing techniques for data analysis is...beneficiary to public health" or "research on improving data analytics is critical for" a number of areas of substantial merit, the letters overwhelmingly described the work she did previously. And, as the Petitioner concedes on appeal, the Petitioner's "past work has no bearing whatsoever on the national importance of her proposed endeavor." So, SCOPS correctly concluded that the Petitioner's evidence of past work did not provide an adequate basis to demonstrate the national importance of her proposed endeavor because it is not sufficiently evident how the past performance of her duties has global or national implications, broader implications rising to a level of national importance.[5]

[5] The Petitioner's contentions about her successful past performance in the field of endeavor she proposes, as well as any

The Petitioner notes that her proposed endeavor is supported by "generous funding from the Army Research Office ('ARO') and the National Institutes of Health ('NIH'), agencies that provide funding specifically for research efforts that advance national interest." In support, the Petitioner submitted a copy of a scholarly article published in [redacted] 2021 in [redacted] 2021.[6] The acknowledgments section in the article notes that "MD, GK & SN gratefully acknowledge the support of [redacted] with the US Defense Advanced Research Projects Agency (DARPA) and the Army Research Office (ARO). SN also acknowledges the NSF grant [redacted] and AFOSR award [redacted] DSD acknowledges the National Institute of Health (NIH) grant no [redacted]" The initials MD, GK, SN and DSD appear to correspond to the initials of the Petitioner's co-authors. Or in other words, the acknowledged funding was granted by the ARO and NIH respectively to individuals other than the Petitioner. The record does not demonstrate the purpose or interest behind the ARO and NIH granting the funding. Nor does the record indicate the ARO and NIH funding supported the Petitioner's proposed endeavor or otherwise demonstrated an interest in the work the Petitioner proposed to undertake as part of her proposed endeavor.

The Petitioner also highlights that her proposed endeavor "involved multiple critical and emerging technologies ('CETs') identified by the National Science and Technology Council ('NSTC')." The Petitioner noted that her endeavor was within the science, technology, engineering, or mathematics (STEM) fields. But in evaluating national importance we are not concerned with the importance of the field; we are evaluating the specific proposed endeavor. Simply proposing an endeavor adjacent to an area of substantial merit or special concern to the United States does not render such an endeavor nationally important as a default.

In sum, the record does not contain preponderantly sufficient relevant, probative, or material evidence establishing the Petitioner's proposed endeavor has potential positive impact either through national or even global impact to the field or broader implications rising to a level of national importance. So, we conclude that the Petitioner has not established that her proposed endeavor is of national importance.

C. Well Positioned to Advance the Proposed Endeavor

The Petitioner further highlights an alleged "confusion" and "substitu[tion of] [redacted] proposed employment for her proposed endeavor" to reassert how well positioned she is to advance her proposed endeavor as contemplated by *Dhanasar*'s second prong. But we must withdraw SCOPS' conclusion that the record established that the petitioner was well positioned to advance the proposed endeavor under the second prong of the *Dhanasar* framework. In evaluating whether a petitioner is well positioned to advance their proposed endeavor, we review the following and any other relevant factors:

- A petitioner's education, skill, knowledge, and record of success in related or similar efforts;

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evidence and information of her achievements and recognition such that it exits in the record, would better serve a demonstration of eligibility under the *Dhanasar* framework's second prong.

[6] It is unclear from the record if [redacted] 2021 is a scholarly publication, or a scientific conference publication.

- A petitioner's model or plan for future activities related to the proposed endeavor that the individual developed, or played a significant role in developing;
- Any progress towards achieving the proposed endeavor; and
- The interest or support garnered by the individual from potential customers, users, investor, or other relevant entities or persons.

It is not clear from the totality of the evidence in the record how an individualized consideration of the multifactorial analysis under *Dhanasar's* second prong would demonstrate how well positioned the Petitioner is to advance her proposed endeavor. A petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n.3 (BIA 1998). The record contains evidence of the Petitioner's master of science in computer science from the [redacted] and that she is currently an engineering associate at the employer whose employment provides a conduit for the performance of her proposed endeavor. But simply having education, skills, and/or knowledge, or even maintaining employment wherein the activities contemplated of a proposed endeavor may be performed does not definitively place a petitioner in a position to advance his or her proposed endeavor. They are relevant points of consideration amongst others which are evaluated together to determine how well positioned a petitioner is to advance a proposed endeavor.

Moreover, the record does not reflect how the Petitioner's prior performance of the duties described in the experience letters and a manuscript for a paper in process as either a similar effort as that of her proposed endeavor or how it constitutes a record of success. The evidence the Petitioner submitted is not material, relevant, or probative evidence in the record of a similar effort as that of her proposed endeavor or how it constitutes a record of success in the endeavor the Petitioner proposed in her petition. The letters largely speak effusively of the Petitioner's work ethic, demeanor, or representations of her skill or experience in common interactions.

The Petitioner also points to bibliometric data such as citation by "independent research teams all over the world" to demonstrate interest in the Petitioner's proposed endeavor. But the Petitioner has not persuasively established that the propositions the citations stand for are connected to the endeavor she plans to undertake and therefore how citation by "independent research teams all over the world" supports how well she is positioned to advance her proposed endeavor. And the evidence in the record in the form of letters written by individuals employed in various capacities at [redacted] and the [redacted] do not the Petitioner's assertion that she has collaborated or has any plans to collaborate with the authors; the letters simply as stated above speak effusively of the Petitioner's work and the author's impression of the work.

As stated above, a petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. at 1142 n.3 (BIA 1998); *see also* the definition of burden of proof from *Black's Law Dictionary* (11th ed. 2019) (reflecting the burden of proof includes both the burden of production and the burden of persuasion). The totality of the evidence in the record does not sufficiently describe how well situated the Petitioner would be to advance her proposed endeavor.

D. Whether on Balance a Waiver is Beneficial

The third prong requires a petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. On appeal, the Petitioner asserts that the national interest in her proposed endeavor is sufficiently invoked to warrant a waiver, and that the United States would benefit from her contributions to the field of endeavor. As the Petitioner has not established that she meets the first or second prong of the *Dhanasar* framework, she has not shown that she is eligible for and otherwise merits a national interest waiver, and we reserve this issue. *See INS v Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *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).

III. CONCLUSION

As the Petitioner has not met the requisite prongs of the *Dhanasar* analytic framework, we find that she has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

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.