U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40797600

Date: JAN. 07, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an attorney specializing in intellectual property and cybercrime, 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 the Petitioner did not establish that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The matter is now before us on appeal. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. *Matter of Dhanasar,* 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states 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 to be discretionary in nature).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

In the decision denying the petition, SCOPS concluded that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree. The issue on appeal is whether the Petitioner qualifies for the national interest waiver. SCOPS determined that while the Petitioner established meeting the second prong of the *Dhanasar* analytical framework, he did not demonstrate meeting the first and third *Dhanasar* prongs. Upon de novo review, we agree with SCOPS' determination that the Petitioner did not demonstrate that his proposed endeavor is of national importance under *Dhanasar's* first prong.[2]

On appeal, the Petitioner contends that SCOPS misinterpreted material facts, ignored evidence, and misapplied the standards set out in *Dhanasar*, amounting "to a critical error in the adjudication process." In the decision's analysis of his endeavor and its national importance, the Petitioner alleges that SCOPS abused its discretion by not appropriately evaluating the totality of the evidence, citing *Buletini v. INS*, 850 F. Supp. 1222 (E.D. Mich. 1994). He maintains that had SCOPS objectively considered the probative value of the evidence, including his business plan, industry articles and reports, government initiatives, recommendation letters from colleagues in his field, and independent opinion letters, it would have found that he clearly demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance. We disagree with the Petitioner's assessment of SCOPS' decision, as discussed below.

To determine whether a petitioner has met their burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.; *see also Matter of E-M-*, 20 I&N Dec. 77, 79- 80 (Comm'r 1989). The court in *Buletini* did not suggest that USCIS abuses its discretion if it does not provide individualized analysis for each piece of evidence. When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim a petitioner makes, nor is it necessary for it to address every piece of evidence a petitioner presents. *Amin v. Mayorkas*, *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *aff'd Morales v. INS*, 208 F.3d 323, 328 (1st Cir. 2000); *see also Pakasi v. Holder*, 577 F.3d 44, 48 (1st Cir. 2009); *Kazemzadeh v. US. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *United States v. Teixeira*, 62 F.4th 10, 25 (1st Cir. 2023) (concluding a trier of fact "need not articulate its conclusions as to every jot and tittle of evidence in making a determination").

Although SCOPS' decision does not individually analyze each piece of evidence, it reflects a reasoned consideration of the evidence. The decision summarizes the Petitioner's proposed work as a digital forensics analyst for his new cybersecurity consulting business as his intended endeavor, acknowledges and analyzes documents submitted, and weighs the evidence but determined that the evidence lacked probative value. *See Matter of Chawathe*, 25 I&N Dec. at 376. The proposed

[2] While we may not discuss every document submitted, we have reviewed and considered each one.

endeavor, as described, and the evidence in the record do not support the Petitioner's assertions that the potential impact of his endeavor would have a broader impact on his field or implications rising to a level of national importance.

The Petitioner claims that SCOPS misread the record and did not fully examine the evidence, thereby undermining the reliability of the denial decision. He points out factual errors in the denial decision, specifically an incorrect reference to the term "veterinary medicine" for his proposed endeavor and language indicating he submitted evidence about research publications and citation history when he did not submit such evidence. We acknowledge SCOPS' error in these instances, but such errors appear to be typographical or harmless errors. Throughout the decision, SCOPS details the Petitioner's indicated proposed endeavor, to work as a digital forensics analyst for his new consulting business. In addition, the decision accurately references and analyzes evidence submitted by the Petitioner. It is not enough to demonstrate errors in an agency's decision; a petitioner must also establish that they were prejudiced by the mistakes. *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009); *Molina-Martinez v. United States*, 578 U.S. 189, 203 (2016); *Amin v. Mayorkas*, 24 F.4th at 394. As the Petitioner has not demonstrated he was prejudiced by the mistakes, such errors would appear to be harmless and are insufficient grounds upon which to base this appeal. Errors can be overlooked when they had no bearing on the substance of an agency's decision. *Aguilar v. Garland*, 60 F.4th 401, 407 (8th Cir. 2023) (citing *Prohibition Juice Co. v. United States Food & Drug Admin.*, 45 F.4th 8, 24 (D.C. Cir. 2022)).

For his proposed endeavor, the Petitioner proposes to establish a cybersecurity, anti-piracy, and anti-counterfeiting consulting business for which he would be its manager and digital forensics analyst. The Petitioner explains that his business would have its main office in an underserved community of [redacted] Florida, and provide anti-piracy strategies and cybersecurity protocols to small and medium-sized software development and technology businesses, particularly businesses expanding into Latin America. The business would help address the growing demand for intellectual property protection and digital security in jurisdictions where software piracy, malware threats, and counterfeit products pose significant risks. He states that he would leverage his experience "in cybersecurity, anti-piracy enforcement, and copyright protection to design and execute customized antipiracy campaigns, conduct unlicensed software recovery actions, and establish internal systems and best practices that reduce exposure to cyber threats . . . ." He claims his work will bolster digitalized safety measures, reduce piracy rates, contribute to software development growth, and increase tax payments on software licenses. With plans to disseminate his work in industry publications, at industry conference presentations, and by creating training programs, he maintains his proposed endeavor would have an impact beyond his business and clients.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. We agree with SCOPS that the record shows that the proposed endeavor to work as the manager and digital forensics analyst for his new cybersecurity, anti-piracy, and anti-counterfeiting consulting business has substantial merit.

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" and evidence documenting the "potential prospective impact" of the proposed endeavor. *Matter of Dhanasar,* 26 I&N Dec. at 889. Here, the Petitioner has not sufficiently detailed his specific proposed endeavor or provided evidence demonstrating its potential prospective impact is commensurate with national importance.

The Petitioner's statements and business plan provide brief descriptions of a broad spectrum of his business' intended services while generally describing his desire to develop individualized cybersecurity, anti-piracy, and anti-counterfeiting strategies for small and medium-sized businesses to mitigate intellectual property theft, prevent data breaches, and minimize resource losses. Using general terms, the business plan indicates the business would establish two specialized teams, one focused on copyright investigations and claims and the other team focused on cybersecurity prevention and management, including compliance audits, software license enforcement, and customized risk management protocols. The Petitioner, however, does not sufficiently detail such cybersecurity, anti-piracy, and anti-counterfeiting solutions or how his endeavor would be different from work typically performed by cybersecurity consulting businesses. For instance, the Petitioner has not detailed or established his plans to introduce novel technologies or cybersecurity advancements that may be disseminated to or adopted by others operating in the field or otherwise articulate how he will contribute to development of our nation's cybersecurity and intellectual property industries.

Moreover, the Petitioner's statements and business plan make broad assertions that his proposed business has the potential to create jobs for U.S. workers; address the shortage of qualified cybersecurity professionals; contribute to advancing cybersecurity innovation; impact national initiatives that would strengthen cybersecurity for national security purposes; and substantially impact the U.S. and local economies by protecting digital assets, minimizing data breaches, and reducing software piracy rates and counterfeit products. The Petitioner, however, has not offered sufficient information or insight about his proposed endeavor or corroborating evidence to support his claims that his business' activities stand to provide the claimed impacts. He makes assertions in his business plan and in his personal statements but has not supported his assertions with sufficient independent and objective evidence. The Petitioner's statements are not sufficient to demonstrate his endeavor has the potential to provide the claimed broader impacts. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 l&N Dec. at 376.

In contrast, the petitioner in *Dhanasar* demonstrated that he conducted research and development in the field of air and space propulsion, more specifically, hypersonic propulsion systems involving speeds above Mach 5, and he had developed a novel method for accurately calculating hypersonic airflow. *Matter of Dhanasar,* 26 I&N Dec. at 891-92. In addition, he submitted evidence reflecting that he would continue his research into designing and developing propulsion systems in nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles and substantial supporting evidence of how his continued research would assist the United States in maintaining its advantage over other nations in hypersonic flight, including documentation reflecting his receipt of funding from a government entity for his research. *Id.* Here, the record does not include the same level of detail and corroborating evidence to demonstrate the Petitioner's proposed endeavor has the claimed potential to substantially impact his field, or otherwise rises to the level of national importance as contemplated by *Dhanasar*.

In *Dhanasar*, we 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.* at 889. 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. Here, the evidence does not suggest that the Petitioner's work establishing a cybersecurity, anti-piracy, and anti-counterfeiting consulting business and hiring employees in a growing industry with a shortage of workers would impact the cybersecurity and intellectual property fields or the U.S. or local economies more broadly.

For instance, the business plan maintains that his business will create jobs and have other substantial positive economic effects, such as generating revenue in an underserved [redacted] Florida community and payment of taxes. The business plan projects that in five years the business will hire 16 direct employees, create an additional 418 indirect jobs, generate over $2 million in annual revenue, and pay almost $270,000 in taxes. However, the record does not sufficiently detail the basis for its financial and staffing projections, or adequately explain how these projections will be realized. The Petitioner has not supported his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner submitted an independent opinion from an economist and associate professor at [redacted] claiming the Petitioner's proposed endeavor would have broad implications by generating jobs and tax revenue. The opinion, however, generally reiterates language and specifics set out in the business plan, and also lacks details for the basis of the financial and staffing projections. Even if we were to assume everything the Petitioner claims will happen, the record lacks evidence showing that creating 16 direct jobs and 418 indirect jobs; generating over $2 million in annual revenue; and paying over $270,000 in taxes by its fifth year of business rises to the level of national importance. Also, without sufficient documentary evidence that his proposed job duties as the manager and digital forensics analyst of his consulting business would impact his field more broadly, rather than benefiting his business and clients, the Petitioner has not demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance.

The Petitioner asserts that SCOPS ignored evidence that shows his endeavor aligns with matters that the U.S. government has described as having national importance or is the subject of national initiatives, namely initiatives to enhance cybersecurity, foster innovation and growth in the software development industry, and support small and medium-sized businesses against intellectual property theft and fraud. He claims his consulting business would safeguard critical sectors from cyber-attacks, intellectual property theft, and fraud, thereby protecting critical infrastructure, enhancing national security, and promoting economic stability. In support of his claims, the Petitioner submitted U.S. government policies and industry reports and articles relating to the cybersecurity market; the importance of cybersecurity to small and medium-sized businesses; the importance of intellectual property to businesses and the U.S. economy; international cybersecurity threats; business revenue losses from cybercrimes; software piracy statistics; and the effects of software piracy on the U.S. economy.

We recognize the importance of the cybersecurity and intellectual property industries and their related careers; however, merely working in the cybersecurity and intellectual property industries as a digital forensics analyst, or starting a cybersecurity, anti-piracy, and anti-counterfeit consulting business for software developers and technology firms is insufficient to establish the national importance of the

proposed endeavor. Moreover, the growth and importance of an industry are not sufficient to meet the national importance requirement under the *Dhanasar* framework. While the importance of government initiatives, such as those by the U.S. Chamber of Commerce, the U.S. Department of State, the National Aeronautics and Space Administration, and the Cybersecurity and Infrastructure Security Agency, is not in dispute, their overall significance does not establish the national importance of the Petitioner's proposed endeavor in particular. Strengthening the cybersecurity of critical infrastructure and safeguarding intellectual property for small and medium-sized businesses may be important to the U.S. economy and national security, however, it does not follow that an individual providing cybersecurity, anti-piracy, and anti-counterfeiting consulting work to software development and technology clients has national importance. The Petitioner makes general statements about his business aligning with national initiatives but does not quantify or provide evidence supporting his proposed endeavor's expected impact on such national initiatives. Although the Petitioner has shown that enhancing the cybersecurity of critical infrastructure sectors and protecting intellectual property for businesses are nationally important issues, he has not demonstrated the potential prospective impact of his specific endeavor to such nationally important matters.

While the Petitioner's statements and business plan make assertions about the potential prospective impact of his proposed endeavor, the supporting evidence mainly emphasizes his academic credentials and his experience in the cybersecurity and intellectual property fields. The recommendation letters from his colleagues mainly attest to his legal experience and to him being valued in the cybersecurity and intellectual property fields. While some of the letters mention the Petitioner's proposed endeavor, the authors do not detail the proposed endeavor or its potential prospective impact. For instance, a lawyer colleague generally explains that the Petitioner has experience in cybersecurity and in the protection of sensitive digital data. Another letter from the head of inspections and fraud prevention with a bank in Argentina similarly attests to the Petitioner's previous professional experience, while expressing that the Petitioner's experience would benefit his proposed consulting business. Likewise, an independent opinion letter from an official with the Public Prosecutor's Office of [redacted] mainly discusses the Petitioner's previous work experience, while using general terms to indicate his professional record shows his endeavor will have broader implications on societal welfare and national security by securing digital infrastructure, disincentivizing piracy through judicial enforcement, and enhancing cybersecurity compliance.

The Petitioner's reliance on his academic achievements and professional experience to establish the national importance of his proposed endeavor is misplaced. While the recommendation letters and his prior professional experience may help to better understand his proposed endeavor and its potential impact, such evidence mainly relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar,* 26 I&N Dec. at 890. The issue here is whether the specific endeavor that the Petitioner proposes to undertake is of national importance under *Dhanasar's* first prong. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. *Id.* at 889.

The Petitioner cites his commitment to cybersecurity awareness and education so that companies and software product end-users gain knowledge to better protect themselves from cyber-attacks and software product piracy and counterfeiting. By disseminating his professional knowledge to educate others through his business' trainings, in industry publications, and at conference presentations, he

claims his endeavor would have a broader impact beyond his business and its clients on his field. However, in *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. *Id.* at 893. We noted that "[a]n 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.* at 889. Likewise, the Petitioner's intent to transfer his professional knowledge to others does not demonstrate an impact on the cybersecurity industry more broadly or rise to the level of national importance as contemplated by *Dhanasar*.

Beyond general assertions, the Petitioner has not demonstrated that the work he proposes to undertake as the manager and digital forensics analyst of his proposed consulting business offers original innovations that contribute to advancements in his field or otherwise has potential broader implications rising to the level of national importance. He does not sufficiently explain or provide evidence demonstrating how his business will contribute to enhancing the cybersecurity and intellectual property industries and to developing cybersecurity technology innovation. The claimed impacts on national initiatives, job creation, and the U.S. and local economies depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between his proposed work and the claimed results. After considering the totality of the circumstances, the Petitioner has not demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance.

SCOPS determined that while the Petitioner is well-positioned to advance his proposed endeavor under *Dhanasar's* second prong, he did not establish 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 under *Dhanasar's* third prong. Because the documentation in the record does not sufficiently establish the Petitioner qualifies for the first prong of the *Dhanasar* precedent decision, he has not demonstrated eligibility for a national interest waiver. This identified basis for dismissal is dispositive of the Petitioner's appeal, and therefore we decline to reach and hereby reserve the Petitioner's appellate arguments and eligibility under the second and third prongs of *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "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).

III. CONCLUSION

As the Petitioner has not established eligibility under the requisite first prong of the *Dhanasar* analytical framework, he is not eligible for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

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.