U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40795125

Date: JAN. 21, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a software engineer, 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 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) the proposed endeavor has both substantial merit and national importance; (2) the individual is well-positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer requirement would benefit the United States. *Id.*

[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).

II. ANALYSIS

SCOPS determined that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional but that he did not establish his eligibility under the *Dhanasar* analytical framework. In particular, they found that the Petitioner did not demonstrate his proposed endeavor's national importance under the first prong.[2] For the reasons set forth below, we agree with SCOPS' conclusions regarding national importance and will dismiss the appeal.

The Petitioner currently works as a hardware-software codesign team leader at [redacted]. In the brief submitted with his initial filing, he claims that his career in the industry spans over two decades and encompasses roles at technology companies including [redacted], and [redacted]. His past positions include roles as a manager/technical leader and site manager/OS architect.

In his Form I-140, Immigrant Petition for Alien Workers, and Career Plan submitted with his initial filing, the Petitioner proposed to work as a software engineer and planned to "secure a leadership role at one of the top cloud computing companies—[redacted], or [redacted]." Over the course of several years, he planned to "build on [his] experience and qualifications to position [himself] as a key innovator and leader in the rapidly evolving cloud computing industry." He stated that his ultimate aim is "to influence the strategic direction of cloud computing infrastructure, making it more efficient, scalable, and accessible."

In response to SCOPS' request for evidence (RFE), the Petitioner submitted a new Career Plan in which he described plans to start a next-generation artificial intelligence (AI) infrastructure consulting firm to build scalable, cost-efficient data center deployments and integrate large language models (LLMs) into real-world vertical applications. He stated he will apply his expertise in AI infrastructure, data center architecture, and enterprise-level digital data transformation to support the U.S. economy, especially in enabling small and medium-sized enterprises (SMEs) to adopt cutting-edge AI solutions.

In denying the petition, SCOPS found that the Petitioner had materially changed his proposed endeavor. While the Petitioner first proposed to work as a software engineer for a top cloud computing company in his initial filing, in response to SCOPS' RFE, the Petitioner submitted a new Career Plan claiming he now intended to start his own AI infrastructure consulting firm. SCOPS found this new information constituted an impermissible material change of the Petitioner's proposed endeavor and so analyzed the endeavor as initially described. SCOPS determined that the evidence did not sufficiently show the Petitioner's future work as a software engineer for a cloud computing company would have regional or national impact at a level consistent with national importance, that the Petitioner's work would have broader implications in his field of endeavor, offer original innovations that contribute to advancements in the industry, broadly enhance societal welfare, or would have a significant potential to employ U.S. workers or other substantial positive economic effects as claimed. Therefore, SCOPS concluded the Petitioner did not establish the national importance of the endeavor he initially proposed.

[2] SCOPS also concluded that the Petitioner met *Dhanasar's* second prong but did not satisfy the third prong.

On appeal, the Petitioner does not contest SCOPS' determination that he materially changed his proposed endeavor. The issue is, therefore, waived on appeal. *See, e.g., Matter of F-C-S-*, 28 I&N Dec. 788, 792 n.6 (BIA 2024) (finding a determination that was not disputed on appeal to be waived). Instead, the Petitioner asserts that he has made significant contributions to and influenced the field of cloud computing, which he claims is a critical technological field, and therefore asserts that he has been engaged in a field of national importance. He also notes that, since SCOPS acknowledged his "significant" contributions and influence under *Dhanasar's* second prong, they should have found his endeavor to be nationally important and approved his petition.

Upon de novo review, we agree with SCOPS' conclusion that the Petitioner has not demonstrated his proposed endeavor's national importance and, thus, has not established his eligibility for a national interest waiver. While we do not discuss every piece of evidence individually, we have reviewed and considered the record in its entirety.

As explained in SCOPS' decision, the first prong—substantial merit and national importance—focuses on the specific endeavor that the foreign national proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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.* 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 Petitioner has not offered sufficient evidence to meet his burden to demonstrate that his proposed endeavor's prospective impact rises to the level of national importance. In particular, the record does not illustrate how his specific endeavor would sufficiently extend beyond his company and clients to impact the industry, region, or nation more broadly at a level commensurate with national importance.

Much of the evidence in the record and the Petitioner's arguments focus on the general importance of the software development, cloud computing, and information technology fields. For instance, he highlights the benefits of software development, stating that it is "the backbone of technological innovation, enabling advancements in virtually every sector of the economy," and cites to a supporting article stating the U.S. software market is expected to generate $444.62 billion in market volume by 2029. He also broadly asserts that the technology industry's national significance extends beyond their direct economic contributions and ensures national security by enabling critical systems in defense, healthcare, and infrastructure to operate with efficiency and resilience.

While we acknowledge the value of fields related to software development, cloud computing, and information technology generally, 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 specific endeavor that the foreign national proposes to undertake." *Id.* at 889. In this case, the evidence submitted does not demonstrate how the Petitioner's specific proposed endeavor of working as an individual software engineer for a company, even in a leadership role, would have broader implications, such that it would impact the field, region, or nation more broadly.

For instance, while the Petitioner submitted a Career Plan, it offers little detail regarding the specific activities he intends to perform that would result in the nationally important impacts claimed. Beyond his generalized plans to, for example, "contribut[e] to cutting-edge cloud computing projects," "target roles that leverage my expertise in hardware-software co-design and distributed systems," and "focus on addressing critical industry trends, such as multi-cloud strategies, AI integration in cloud services, and energy-efficient computing," he has not specifically explained how his work as an individual software engineer for a company would have broader, nationally important implications. While his endeavor may stand to positively impact his company and clients, he has not demonstrated how his endeavor will have broader economic or other impact consistent with national importance as contemplated by *Dhanasar*. *Id.* at 889-90.

Likewise, the industry articles also do not mention or discuss the Petitioner's proposed endeavor specifically, including how it might impact the field more broadly and rise to the level of national importance. Although the Petitioner contends he has met this prong because he "has been working in a field of substantial merit and national importance," working in an important field alone is insufficient to establish the national importance of the proposed endeavor. The Petitioner must still demonstrate his specific endeavor's potential prospective impact in that area of national importance, which he has not done.

Additionally, although the Petitioner contends that his endeavor has national importance because cloud computing is a critical technological field, the evidence must still demonstrate that the STEM (science, technology, engineering, and mathematics) related endeavor has national importance, such as by advancing a STEM technology or area of research. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual (stating that with respect to the first prong, as in all cases, the evidence still must show that a STEM endeavor has national importance). Although we note that the Petitioner broadly claims that he will "actively participate in industry conferences and publish technical papers and case studies on topics like NPU performance modeling and Spark/Vortex optimizations," he has provided little detail on any future research activities. The Petitioner has not sufficiently explained, for example, what these research activities would involve, how such activities would provide significant benefits to the field or nation, or otherwise shown how the particular work he proposes to undertake would offer original innovations that contribute to advancements or otherwise have broader implications for his field. Without more, the Petitioner has not established the national importance of the proposed endeavor simply because it relates to a STEM field.

The Petitioner also relies on his expertise, past experience, and claimed record of success. He submits evidence including his academic records, publications, awards, certificates, documentation of Chinese patents in which he is listed as a co-inventor, articles discussing his speeches, and support letters. In doing so, he asserts that his "multidisciplinary expertise aligns with national priorities in technology, cybersecurity, and economic growth" and that "[h]is ability to innovate across diverse industries and technologies underpins his critical role in fostering advancements that benefit not only specific sectors but also the broader national and global landscape." However, the Petitioner's knowledge, skills, and abilities relate 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 under the first prong is whether the specific endeavor that he proposes to undertake has national importance.

We have also considered the Petitioner's support letters but they likewise do not demonstrate his endeavor's national importance. The majority of the letters discuss the Petitioner's skills, expertise, personal attributes, and past accomplishments. But again, insofar as these letters, the Petitioner, and other evidence in the record comment on these areas, they are considerations under *Dhanasar's* second prong. *Id.* at 890. Additionally, while some letters broadly state that the Petitioner will make significant contributions to the industry, they lack specific details and corroborating evidence to substantiate their claims. For example, while the letter written by [redacted], Chief Executive Officer of [redacted], asserts that the Petitioner "will continue to make unique contributions to the U.S. computer industry and related enterprises," his assertions are largely conclusory and he does not explain how the Petitioner's specific proposed endeavor would have such broader, nationally important implications.

Consequently, the record as it is currently stands does not show that any prospective benefits of the Petitioner's proposed endeavor would rise to a level of national importance as required under *Dhanasar's* first prong. The Petitioner has not shown how his future work as a software engineer for a company would have broader implications in his field, have a significant potential to employ U.S. workers or have substantial economic or societal effects beyond his future employer and clients. Because the identified reasons for dismissal are dispositive of this appeal, we decline to reach and hereby reserve remaining issues and arguments concerning whether he has established eligibility under the remaining two *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).[3]

III. CONCLUSION

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.

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.

[3] In the decision, SCOPS concluded that the Petitioner met *Dhanasar's* second prong. We disagree with SCOPS that the Petitioner is well positioned to advance the endeavor and note that this is an additional ground for ineligibility to be addressed in any future proceedings. However, as the Petitioner did not demonstrate his eligibility under *Dhanasar's* first prong, we will reserve the second prong issues.