U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42219444

Date: JUL. 08, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a data analyst and signal processing 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).

USCIS denied the petition, concluding that the record did not establish that he is eligible for a national interest waiver. 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:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

[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).

Id.

II. ANALYSIS

The Petitioner is employed as a data analyst and digital signal processing engineer for [redacted] a company specializing in advanced photonic solutions, where he engages in research and development to advance imaging technologies. His proposed endeavor is to continue working with his employer to advance the development and quality of passive millimeter-wave (PMMW) imaging through mathematical, statistical, and computational methods. Through the development of digital signal processing, computer vision, algorithms driven by artificial intelligence (AI) and machine learning (ML), and statistical analysis, he intends to improve real-time image reconstruction, threat detection, and system scalability for defense, aviation security, homeland security, and public safety applications.

SCOPS concluded that the Petitioner qualifies as a professional holding an advanced degree. The record supports that conclusion; he has a master's degree in business analytics and information management from the [redacted] SCOPS determined, however, that a waiver of the requirement of a job offer, and thus a labor certification, would not be in the national interest. SCOPS concluded that, while the Petitioner demonstrated the substantial merit of his proposed endeavor, he did not establish its national importance or 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 SCOPS did not consider his endeavor's national importance in terms of how it is advancing a valuable field of technology, enhancing national security, public safety, and U.S. competitiveness, or its broader applicability. Upon review, for the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his endeavor under the first prong of the *Dhanasar* analytical framework.

A. Substantial Merit and 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 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." *Id.* In *Matter of Dhanasar*, we further 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. If the evidence of record demonstrates that an

individual's proposed endeavor has the significant potential to, for example, contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance.[2]

The Petitioner submitted documentation from government sources discussing research initiatives and technological developments relating to PMMW digital systems. Reports from the Department of Commerce and the Congressional Research Service discuss the use of the electromagnetic spectrum, and an article from the Department of Energy discusses how the millimeter-wave region is immense and comparatively free of interference, providing massive available bandwidth to allow communications systems to achieve gigabit-per-second data rates. A report from the Department of Defense discusses PMMW imaging as a federally commissioned defense research priority for detecting concealed threats in degraded visual conditions, and it highlights the need for more efficient image reconstruction and noise reduction algorithms to enable real-time detection of concealed weapons. The Petitioner also submitted an $8 million contract between the U.S. Navy and his employer to develop a reliably replicable PMMW imaging system capable of deployment in an operation environment.

On appeal, the Petitioner reasserts that his endeavor is nationally important because it involves advancing technology that has several applications, including for purposes of national defense. He explains that, while he has worked on the project for the U.S. Navy, citizenship-based restrictions prevent him from engaging in sensitive portions of the research. However, while the record demonstrates the importance of the field in which the Petitioner intends to work and that his employer may have a federal contract to conduct work in the field, the record does not contain evidence sufficient to demonstrate the national importance of the Petitioner's specific endeavor. Specifically, evidence concerning his employment activities is limited to his own statements; the record does not include evidence from his employer or from an objective source discussing his work and explaining its national importance. And although the Petitioner asserts that the contract represents only one application of the broader body of his work, pointing to his peer-reviewed publications and conference presentations, he has not submitted evidence demonstrating how that work has or will impact his field to rise to the level of national importance.

Based on the evidence of record, we are unable to assess the potential prospective impact of his proposed endeavor because the Petitioner has not substantiated his claims regarding national importance with evidence. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. He has not done so here. The record does not establish the national importance of the proposed endeavor as required by the first prong of *Matter of Dhanasar*.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether they are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their 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

[2] *See generally* 6 *USCIS Policy Manual* at F.5(D)(3), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5.

endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.*

SCOPS stated that evidence of the Petitioner's advanced degree, his peer-reviewed research, and his "current role and job duties with [his] present employment" establish his eligibility under *Dhanasar's* second prong. In addition to his educational and training documentation and his published papers, the record includes the aforementioned contract between his employer the U.S. Navy, an employment offer letter with job benefits information, a salary increase notification letter, and an employment contract addendum for reimbursement of immigration legal fees. Though some of this documentation is relevant to *Dhanasar's* second prong, the record does not include any corroborating evidence of the Petitioner's current employment, and information concerning his job duties is limited to what he provided in his own statements. For instance, the record does not include letters confirming the Petitioner's employment duties, skills, or accomplishments with his employer, nor does the record include evidence of his involvement with specific projects for his employer, such as fulfilling the order from the U.S. Navy, which he claims has national importance. Accordingly, we disagree with SCOPS and withdraw the determination that the record establishes the Petitioner's eligibility under the second prong of *Matter of Dhanasar*.

The record does not establish that the Petitioner is well positioned to advance his proposed endeavor, as required by the second prong of *Matter of Dhanasar*. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

The Petitioner has not demonstrated that the proposed endeavor has national importance or that he is well positioned to advance the endeavor. As the Petitioner has not met the requisite first and second prongs 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. The petition will remain denied.

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.