U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37763456

Date: JUNE 9, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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:

- 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 found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to his proposed endeavor, the Petitioner indicated that he "aims to establish [redacted] LLC, a venture dedicated to . . . bolstering the cybersecurity infrastructure of diverse organizations throughout the United States." He further stated:

> The Company intends to cater to the distinct cybersecurity necessities of various sectors, including, but not limited to, small and medium-sized enterprises, educational bodies, and key infrastructure entities. Specifically, the Petitioner intends to apply his extensive expertise in cybersecurity to design and develop security strategies aimed at enhancing the cybersecurity posture of companies within the United States . . . . Moreover, the Company plans to roll out targeted educational programs and training workshops designed to enhance the cybersecurity acumen of Information Technology (IT) professionals and executive leaders alike.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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.* SCOPS determined the Petitioner's proposed endeavor has substantial merit. We agree.

SCOPS concluded, however, that the Petitioner did not establish the national importance of his proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. SCOPS determined the Petitioner did not establish the potential prospective impact of his company and its services.

In addition to his company's Florida business registration, the Petitioner's evidence includes his business plan for [redacted] LLC. This business plan provides industry and market analyses, information about the company and its services, financial forecasts and projections,

marketing strategies, a discussion of the Petitioner's education and work experience, and a description of company personnel. Regarding future staffing, the Petitioner's business plan anticipates that his company will employ "12 full-time staff members each year" "from year 3 onwards," but he did not elaborate on these projections or provide evidence supporting the need for these additional employees. Furthermore, while his plan offers revenue projections of $416,400 in year one, $860,400 in year two, $1,328,400 in year three, $1,544,400 in year four, and $1,670,400 in year five, these projections are not supported by details showing their basis or an explanation of how they will be achieved.

The Petitioner also submitted articles on the importance of database administration, artificial intelligence (AI), data security, economic development, and cybersecurity. The Petitioner claims that these articles support the national importance of his proposed endeavor. The determination of national importance does not focus on the importance of AI, cyber and data security, or economic development in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles mention the Petitioner or his company, or otherwise speak to the potential prospective impact of his specific proposed endeavor.

Furthermore, the Petitioner provided articles discussing the shortage of software engineers, software developers, and IT professionals. He contends that his proposed endeavor has national importance because it "will help alleviate the shortage of talent in the IT industry." We are not persuaded by the argument that the Petitioner's proposed endeavor has national importance due to the shortage of workers in his field. Here, the Petitioner has not established that his proposed endeavor stands to impact or significantly reduce the claimed national shortage. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

In addition, the Petitioner presented letters of support from T-D-, C-V-, L-E-D-, G-L-B-, R-F-R-M-, J-C-, N-Z-, R-V-, and S-M- discussing his cybersecurity capabilities and IT experience. A second letter from J-C- also expresses interest in engaging the Petitioner's company's services. The Petitioner's skills, knowledge, and prior work in his field, as well as interest from a potential customer, relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong.

The Petitioner also offered an "Expert Opinion Letter" from Dr. B-D-W-, Professor of [redacted] at [redacted], in support of his national interest waiver. Dr. B-D-W- contends that the Petitioner's proposed work "has significant potential to employ U.S. workers and has other substantial positive economic effects," "will broadly enhance societal welfare," "holds significant national and global implications within the cybersecurity field," and "impacts a matter that a government entity has described as having national importance or is the subject of national initiatives," but he does not identify any specific organizations that have been or will be serviced by [redacted] LLC in a manner indicative of broader implications to the field or substantial positive economic effects. Dr. B-D-W- further states that the Petitioner's "company plans to have a total of 12 employees." Even with this projected job growth, the record does not indicate that [redacted] LLC would employ a substantial number of U.S. workers or otherwise have a significant economic impact as contemplated in *Dhanasar*. *See id.* at 890. The advisory opinion from Dr. B-D-W- does not demonstrate how the Petitioner's day-to-day management of his company's operations as contemplated by his proposed

endeavor rises to a level of national importance. The letter from Dr. B-D-W- does not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work offers broader implications in his field or substantial positive economic effects for our nation that are indicative of its national importance.

In the decision denying the petition, SCOPS determined that the Petitioner had not established the national importance of his proposed endeavor. SCOPS stated the Petitioner had not demonstrated that his undertaking has "significant potential to employ U.S. workers or has other substantial positive economic effects for our nation." In addition, SCOPS indicated the Petitioner had not shown that his proposed work stands "to broadly impact the cybersecurity industry."

In his appeal brief, the Petitioner argues that his proposed endeavor has national importance because it is aimed at helping "companies in the United States adopt cyber security measures, which are essential to protect them against a broad range of cyber threats." He asserts that his undertaking "is essential for creating a secure digital environment that safeguards sensitive data and ensures the smooth operation of businesses, thereby supporting the broader objectives of safeguarding national security and promoting economic resilience." The Petitioner further contends that his proposed work stands to "not only enhance the operational security and reliability of these businesses but also foster a secure environment conducive to innovation and economic activity."

The Petitioner, however, has not provided evidence demonstrating that his proposed cybersecurity consulting and training activities would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any company's economic activities or educational programs have the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the potential prospective impact of his proposed endeavor stands to offer broader implications in his field or to generate substantial positive economic effects in the regions where his company will operate or in other parts of the United States.

The Petitioner also claims that his proposed endeavor stands to "foster business growth and expansion," impact "the U.S. economy by driving both growth and employment," and "create a strong ripple effect on the economy." In addition, the Petitioner argues that his undertaking "could reduce the cost associated with data breach and create significant savings." He further states that his work will help companies "in implementing robust cybersecurity infrastructure to protect sensitive information, maintain consumer confidence, and meet regulatory standards, thus preventing financial and reputational harm." Moreover, the Petitioner asserts that his proposed endeavor is aligned with U.S. initiatives such as the National Cyber Strategy, the Cybersecurity and Infrastructure Security Agency, the National Initiative for Cybersecurity Education, and the Cybersecurity Information Sharing Act.

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. While the Petitioner's statements reflect his intention to provide cybersecurity training and consulting services through his company, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. 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. Here, we conclude the

Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his company and its clientele to impact the field of cybersecurity, U.S. cybersecurity initiatives, the IT industry, our country's national security, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not shown that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Specifically, he has not demonstrated that his company's future staffing levels and business activity stand to provide substantial economic benefits in Florida or in other parts of the United States. While the Petitioner claims that his company has growth potential, he has not presented evidence indicating that the benefits to the regional or national economy resulting from his undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890. In addition, although the Petitioner asserts that his endeavor stands to create jobs for U.S. workers, he has not offered sufficient evidence that his endeavor offers Florida or the United States a substantial economic benefit through employment levels or business activity.

The Petitioner has not established that his proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance.

B. The Remaining *Dhanasar* Prongs

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. As this issue is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of his eligibility under the second and third prongs of the *Dhanasar* framework. *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.