U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38748136

Date: JUNE 17, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a security 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).

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. While neither the statute nor the pertinent regulations define the term "national interest," 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
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

SCOPS found that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree.[2] The issue on appeal is whether the Petitioner established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. SCOPS determined that while the Petitioner demonstrated the proposed endeavor has substantial merit, he did not establish that the proposed endeavor is of national importance, as required by the first prong of the Dhanasar analytical framework. Upon de novo review, we agree with the SCOPS' determination that the Petitioner did not establish the national importance of his proposed endeavor.[3]

On appeal, the Petitioner asserts that SCOPS erred by confining the benefits of his proposed endeavor to his employer. He claims that his statements and supporting evidence show his research has benefited companies beyond his employer. He maintains that his research has been internationally disseminated and that he intends "to continue disseminating his research at national and global cybersecurity conferences." In addition, citing Buletini v. INS, 860 F. Supp. 1222 (E.D. Mich. 1994), the Petitioner claims SCOPS abused its discretion by not appropriately evaluating the evidence, in particular the evidence he submitted with his reply to a request for evidence.

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). Here, we disagree with the Petitioner's assessment of SCOPS' decision. SCOPS acknowledged documents submitted, specifically documents included with the Petitioner's request for evidence reply, such as his new statement, articles, reports, government directives, citation records, an employment offer letter, and recommendation letters, to evaluate the substantial merit and national importance of his proposed endeavor. Based on the record, SCOPS' decision is a reasoned interpretation and consideration of the evidence. The proposed endeavor, as described, and the evidence in the record do not support the Petitioner's assertions that the potential impact of his endeavor extends beyond his employer to have a broader impact to his field or implications rising to a level of national importance.

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[1] See Flores v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

[2] To qualify for the underlying EB-2 classification as an advanced degree professional, the Petitioner submitted his diploma and academic transcript indicating he earned a master of science in computer science from Rice University in Texas. Based on the record, the Petitioner has established he is an advanced degree professional.

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

The first prong of the Dhanasar analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner 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. In determining national importance, the relevant question is not the importance of the field, 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.

For his proposed endeavor, the Petitioner states that he intends "to refine and advance comprehensive cybersecurity vulnerability scanning technologies to accurately identify a wide array of security vulnerabilities across various systems and platforms, thereby strengthening cybersecurity defenses, automating and standardizing vulnerability management procedures, and ensuring the confidentiality, integrity, and availability of national digital ecosystems."

In his initial petition, the Petitioner stated that he planned to continue his work as a security engineer with [redacted] U.S. Data Security, his employer at the time he filed the petition, where he would advance his proposed endeavor through his involvement in [redacted]. He explained that his work would include the research and application of advanced vulnerability management tools. Specifically, he described leading a collaboration with [redacted] security engineers "to enhance cloud security solutions, contributing to harden [redacted] security features, fine-grained registry access controls, and centralized cloud log analysis for security incident response."

SCOPS requested further evidence relating to *Dhanasar's* three prongs. In his reply, the Petitioner submitted additional evidence about his proposed endeavor, including his new statement, an employment offer letter from [redacted], letters of recommendation about his work, articles, reports, and documents relating to government initiatives. The Petitioner's new statement indicates that he changed his employment and has been working as a security engineer for [redacted]. For his proposed endeavor, he states that he intends "to advance the cybersecurity of critical U.S. digital infrastructure by strengthening software supply chain security, innovating vulnerability detection tools, and safeguarding crucial infrastructure through secure logistics systems" through three newly described projects.

Initially, the Petitioner stated that he proposed to advance cybersecurity vulnerability scanning technologies through his work with [redacted] without explaining or providing evidence about the project. His request for evidence reply and appeal did not enhance or clarify the initially proposed endeavor but instead presented a new set of facts regarding the proposed endeavor, which is material to eligibility for a national interest waiver. USCIS regulations affirmatively require a petitioner to establish eligibility for the benefit sought at the time the petition is filed. 8 C.F.R. § 103.2(b)(1). The Petitioner's proposed new projects and his work with [redacted] were presented after the filing date; as such, the revised endeavor cannot retroactively establish eligibility. If significant material changes are made to the initial request for approval, a petitioner must file a new petition rather than seek approval of a petition that is not supported by the facts in the record.

Nevertheless, the Petitioner has not demonstrated that his proposed endeavor described in his request for evidence reply is of national importance. For his intended research work, the Petitioner generally explains his proposed research would focus on improving vulnerability detection systems and that he intends to publish and present his research findings. The first prong relates to substantial merit and national importance of the "specific endeavor." Matter of Dhanasar, 26 I&N Dec. at 889. When analyzing the national importance of a petitioner's proposed endeavor under *Dhanasar's* framework, we focus on the prospective impact of the proposed endeavor, instead of limiting our analysis to a petitioner's employment at the time of filing. An endeavor is more specific than a general occupation and should include details of the types of work a petitioner intends to undertake and describe specific projects and goals. See generally 6 USCIS Policy Manual F.5(D)(2), https: //www.uscis.gov/policy-manual.

As a comparison, 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 Petitioner has not offered a specific proposed endeavor for his intended research work as required under Dhanasar, and he has not provided this level of focus or documentation to support his claims that his proposed research projects have the potential to impact the field of cybersecurity or other fields and industries. Instead, the Petitioner's evidence relating to the national importance of his intended research mostly explains his previous research, makes broad claims that he would conduct research to advance cybersecurity vulnerability scanning technology, and stresses the importance of cybersecurity. While continuing his work as a security engineer demonstrates the substantial merit of the proposed endeavor, it does not support or demonstrate its prospective potential impact nationally, or even globally, or through broader implications rising to a level of national importance.

The Petitioner has not demonstrated that his proposed research with the three newly described projects is of national importance. For the first project, he describes how he was the lead developer of dependency-diff feature under [redacted] project while interning at [redacted] and that he continues to support and maintain this feature as part of his "ongoing commitment to improving open-source security." However, the Petitioner's explanation and evidence supporting his proposed endeavor to research and advance the functionality of the dependency-diff feature is mostly about his previous contributions to developing the dependency-diff feature. For instance, letters from his previous colleagues attest to the Petitioner being part of the development of the dependency-diff feature at [redacted]. They further explain that the feature enhanced the Scorecard security platform which has been adopted globally by reputable companies and organizations. Besides general statements about intending to advance the security feature, the Petitioner's statements, supporting letters, and other evidence in the record do not identify or detail his proposed research to advance the cybersecurity feature.

For his second project, the Petitioner indicates he is leading ongoing research and development of an artificial intelligence-based vulnerability detection platform, [redacted], with coauthors at [redacted] He describes [redacted] as "an LLM-enhanced vulnerability detection system to secure critical applications." Similar to the first project, a letter from the Petitioner's colleague mainly attests to having previously worked with the Petitioner at [redacted] on this project. While his colleague indicates that they and the Petitioner plan to prepare their research findings for publication in peer-reviewed journals and conferences, the letter and other supporting evidence do not detail or explain the Petitioner's prospective research for this project.

For the third project, the Petitioner explains that as a security engineer for logistics and supply chain security at [redacted] he would enhance supply chain security, protect against cybersecurity threats, streamline security operations, and timely deliver essential goods such as healthcare supplies. Again, besides general statements, the Petitioner has not explained or provided evidence detailing his plans to enhance supply chain security, or how his work with this proposed project differs or offers novel solutions outside of his normal job responsibilities that would have a potential impact on his field or otherwise be of national importance.

The record also includes recommendation letters from colleagues who are familiar with his previous research, relating his is development of advanced vulnerability management systems, such as a novel statis cross-site scripting scanner during his academic research and his use of machine learning techniques rather than traditional, manual methods to reduce errors. His colleagues in the field focus on the Petitioner's previous security engineering work and accomplishments with general statements that the Petitioner's contributions in his field would be of value to the United States. However, the letters do not identify or address his specific proposed endeavor. We may, in our discretion, use advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. See *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988).

Last, the Petitioner claims that SCOPS' decision is contrary to national initiatives and USCIS policy guidance recognizing the importance of cybersecurity, artificial intelligence, machine learning, and progress in the fields of science, technology, engineering, and mathematics (STEM). He maintains that his endeavor involves research to advance STEM technologies, in particular cybersecurity, artificial intelligence, and machine learning technologies which are recognized by the U.S. National Science and Technology Council as being critical and emerging. The record includes media articles, industry reports, and U.S. government initiatives which focus on global cybercrime, the trust levels of users on social media, and the importance and growth of cybersecurity.

While USCIS recognizes specific evidentiary considerations relating to STEM degrees and fields, "the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." See generally 6 USCIS Policy Manual, supra, at F.5(D)(2). We acknowledge the overall value of the cybersecurity industry, attracting qualified professionals in related careers, and strengthening our nation's technology, particularly technology recognized as critical and emerging, but their overall significance does not establish the national importance of the Petitioner's proposed endeavor in particular. See id. The Petitioner has not sufficiently detailed his proposed research to understand

how it would advance STEM technologies with sufficiently broad potential implications for his field rising to the level of national importance. Moreover, the Petitioner has not demonstrated that his specific undertaking of working as a security engineer for a U.S. company and conducting research developing and refining cybersecurity vulnerability scanning technologies stands to have an impact beyond his potential employer and clients, or that his proposed research work would otherwise have broader implications for the technology industry, U.S. technology national initiatives, or other industries.

SCOPS further determined that although the Petitioner established that he is well-positioned to advance the 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) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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.