U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38330779

Date: JUN. 26, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks to employ the Beneficiary as a senior software engineer. The Petitioner requests the Beneficiary's classification under the 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 that although the Beneficiary qualified for the classification as a member of the professions holding an advanced degree, the Petitioner 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. 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 classification, a petitioner must establish that a beneficiary is either a member of the professions holding an advanced degree or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

We set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver of the job offer, and thus the labor certification, under the EB-2 classification if the petitioner demonstrates that:

[1] *See Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

- 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.

See Dhanasar, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

II. ANALYSIS

SCOPS concluded that the Beneficiary qualifies as an advanced degree professional. The record supports that conclusion. The issue to be determined on appeal 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.

In response to a request for evidence, the Petitioner provided the following description of the Beneficiary's proposed endeavor:

> [The Beneficiary's] proposed endeavor is to develop advanced engineering methodologies to secure emerging cyber threats and protect user data using advanced machine learning algorithms and innovate in the field of software defined vehicles [SDV] to benefit the United States.

Although SCOPS determined that the proposed endeavor had substantial merit, SCOPS concluded the record did not establish that the endeavor is of national importance. On appeal, the Petitioner reiterates arguments concerning the purported national importance of the proposed endeavor and cites documentation previously included in the record. The Petitioner asserts that SCOPS' decision was in error, and that SCOPS erred by misapplying the preponderance of the evidence standard[2] and overlooking certain evidence in the record. Upon review, we disagree with the Petitioner's assertions; SCOPS acknowledged each piece of evidence by name, and the Petitioner has not provided an explanation of how SCOPS did not weigh the evidence according to the appropriate standard. For the reasons discussed below, we agree with SCOPS that the Petitioner has not sufficiently demonstrated the national importance of the proposed endeavor in order to establish eligibility under the first prong of the *Dhanasar* analytical framework.

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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

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." *Id.* In *Dhanasar*, we further noted that "we look for broader

[2] *See INS v. Cardoza-Foncesca*, 480 U.S. 421, 431 (1987) (discussing "more likely than not" as a greater than 50% chance of an occurrence taking place).

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. Further, to evaluate whether the Beneficiary's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. *Id.* at 889.

On appeal, the Petitioner provides the following to support its assertion that the Beneficiary "is the best qualified candidate the help lead [the Petitioner's company] cybersecurity and privacy efforts, thereby supporting general cybersecurity and digital privacy across the U.S.:

> [The Beneficiary's role at the company] is crucial to the United States automotive industry and economy. His contributions drive innovation, ensure regulatory compliance, and enhance global competitiveness, thereby fostering economic growth and supporting job creation domestically and internationally. Through his efforts, he propels the automotive industry towards a more connected, efficient, and sustainable future, benefiting both consumers and industry stakeholders alike.
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> His role as a Senior Software Engineer in the automotive industry is profoundly beneficial to the United States. First and foremost, he drives innovation and technological advancement by spearheading the development and integration of cutting-edge cybersecurity, authentication, and authorization solutions ingo vehicles, enhancing their competitiveness and bolstering the reputation of the United States as a leader in automotive technology globally. Furthermore, the automotive industry, including companies like [the Petitioner's], is a significant contributor to the U.S. economy. These companies generate thousands of jobs across various sectors, including manufacturing, engineering, research, and development. Senior Software Engineers play a crucial role in ensuring the success of vehicle programs.

To demonstrate the national importance of the proposed endeavor, the Petitioner initially provided industry reports and articles discussing automotive and electrification engineering, cybersecurity, government initiatives concerning critical and emerging technologies, and information about the Petitioner's company. This material, however, does not provide sufficient insight into the Petitioner's plans to employ the Beneficiary as a senior software engineer continuing his work on safety and cybersecurity systems for SDVs and vehicle apparatuses. While this documentation generally relates to the area of the proposed endeavor, it does not speak to how the Beneficiary's work as a single senior software engineer continuing his role within a multi-billion-dollar automotive manufacturing company would have a potential prospective impact of national importance.

The record also includes letters of recommendation discussing the Beneficiary's work in several positions in which he has deployed his skills to achieve the goals of his employer. Although these letters express confidence in the Beneficiary's abilities and discuss his responsibilities, job performance, and accomplishments, they do not illustrate a specific proposed endeavor of national importance. We note that evidence of the Beneficiary's job experience and performance generally relates not to the national importance of an endeavor, as discussed in the first prong of *Matter of*

Dhanasar, but to the second,[3] which evaluates whether an individual is well positioned to advance an endeavor. As such, the letters do not sufficiently demonstrate the national importance of the proposed endeavor.

In addition, the record includes documentation discussing issues relating to the fields of science, technology, engineering, and mathematics—collectively known as STEM—which the Petitioner submitted as evidence to support the national importance of the proposed endeavor. Although the Petitioner asserts that the Beneficiary's endeavor will further certain objectives described in this documentation, the material itself does not provide sufficient insight into how the Beneficiary's specific intent to continue his work at the Petitioner's company would benefit the United States on a national level. While this documentation relates to the area in which the Beneficiary intends to work, it does not speak to how specific work conducted by the Beneficiary would have a potential prospective impact of national importance.

Regarding the material relating to STEM, USCIS Policy Manual guidance provides that an endeavor rooted in STEM may have national importance when the evidence sufficiently demonstrates that it would help the United States to remain ahead of strategic competitors or current and potential adversaries.[4] We may also determine that an endeavor in a STEM field has national importance when it relates to a field where appropriate activity and investment may contribute to the United States achieving or maintaining technology leadership or peer status among allies and partners.[5] Here, the Petitioner has not explained how the proposed endeavor would position the United States ahead of other nations or achieve or retain technology leadership or peer status with other countries. The Petitioner instead relies on the importance of the field in which the Beneficiary will work. The Petitioner provides general assertions that the Beneficiary's work has prospective national implications within the fields of cybersecurity and artificial intelligence—stating, for example:

> It is clear that developing new, cutting-edge software developments concerning cybersecurity specific to vehicle safety does indeed advance the field and furthers U.S. infrastructure security. [Through] [t]he development of AI based algorithms to ensure their effectiveness and ultimate use in vehicles used by the U.S. public, [the Beneficiary] works directly on backend cybersecurity efforts, machine learning algorithms, and vehicle safety data. The prospective potential impact [the Beneficiary] is likely to have by pursuing this endeavor is apparent.

While the Petitioner emphasizes the Beneficiary's knowledge and the importance of cybersecurity in in the field of vehicle safety, it has not described any software or technology the Beneficiary has developed that would potentially be advantageous for the United States. Merely working in an important industry or field does not establish the national importance of a proposed endeavor. For instance, in *Dhanasar*, we highlighted that while the field of STEM Education may be of national importance, the duties of a STEM classroom teacher would not necessarily be of national importance because the impact that would flow from the teaching activities would not sufficiently extent beyond

[3] Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* framework, determinations concerning the second and third prongs are unnecessary to the ultimate decision; therefore, they will be reserved in this decision.

[4] *See* 6 USCIS Policy Manual F.5(D)(2).

[5] *Id.*

the classroom students.[6] The Petitioner also relies on "the common-knowledge fact that [the Petitioner's company] itself holds indisputably monumental importance in the United States," providing supporting material from the company which outlines the Beneficiary's roles concerning several areas of importance to the Petitioner. Examples of the Beneficiary's work are described as follows:

> Enhanced Safety: By improving cybersecurity services and rigorous testing, [the Beneficiary] ensures the security of consumer data, which significantly reduces the risk of data breaches, thereby enhancing safely of electric vehicle consumers.
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> Technology Innovation: Collaborating with advanced product engineering teams to integrate cutting-edge technologies ensures that the United States remains at the forefront of security innovation, improving the overall safety of vehicles in the [United States] that are progressively becoming more software based.
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> National Impact: The successful implementation of these standardized processes supports a commitment to an all-electric future, contributing to the reduction of greenhouse gas emissions and promoting a more sustainable environment in the United States.

These descriptions of elements of the Beneficiary's work, however—as presented here in a letter of support and similarly throughout the record—do not illuminate any specific endeavor of national importance that the Beneficiary intends to undertake. And specific descriptions concerning the Beneficiary's work for the Petitioner—such as conducting an analysis of permissions granted to customers for certain apps or his debugging efforts during the integration of certain microservices with SDV—are not tied to an explanation of a proposed endeavor beyond an overall intention to continue his employment as part of the Petitioner's general efforts to continue its work in the development of certain vehicle technologies. The Petitioner has not defined an endeavor of national importance that the Beneficiary will undertake.

The Petitioner also generally asserts that the proposed endeavor to advance the technology underlying cybersecurity software systems has significant potential to have substantial positive impacts. The Petitioner cites auto insurance costs and the practice by insurance companies of adjusting premiums based on factors that include medical payouts and repair costs due to collisions. The Petitioner states that the Beneficiary's "efforts to ensure the development of cybersecurity software systems and their use by the U.S. public in their vehicles will directly impact the reduction of collisions and data loss, decrease the cost paid by insurance companies, and save money for U.S. families that are not bearing the burden of insurance hikes made to recoup losses." However, the Petitioner has not shown that the wider economic effects it claims are implications of the Beneficiary's specific proposed endeavor; it is not clear how his singular efforts working for the Petitioner constitute an endeavor of a scale that would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*.[7]

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[6] *Matter of Dhanasar*, I&N Dec. at 893.
[7] *Id.* at 890.

The Petitioner further asserts that "increasing the reliability of AI based cybersecurity systems will broadly enhance societal welfare through reducing the risk of severe collisions while in operation as well as protecting U.S. consumers. It will also increase the trust consumers have in vehicles," which the Petitioner states "will lead to a further societal benefit: the adoption of safer more autonomous vehicles. Adoption of autonomous vehicles will also be encouraged by [the Petitioner's] intent to improve the design and development of ADAS [advanced driver-assisted systems] in order [to] reduce collisions and unnecessary property loss." As the Petitioner further explains:

> Adoption of autonomous vehicles, specifically in reference to security software and SDV development, serves to enhance societal welfare by markedly impacting the efficiency and ease through which the U.S. public uses infrastructure. By making significant advances toward autonomous safety systems, U.S. transportation will improve. Improvements in the reductions and collisions and congestion due to accidents will mitigate driver fatigue and encourage more efficient traffic flow. While collisions will happen in any scenario, the technologies that [the Petitioner] is advancing and developing have and will continue to have made a significant impact on the trust the U.S. public has on its roads and vehicles that they drive.

Although the Petitioner has provided information concerning societal impacts of developments in the automotive industry, the Petitioner's assertions are not sufficiently supported by probative evidence relating to the proposed endeavor. To determine whether a petitioner has met its burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality of the evidence, including it relevance, probative value, and credibility. *See Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner bases the purported importance of the Beneficiary's continued work as a senior software engineer on large-scale technological development and the behavior of consumers in the automotive market; while we recognize the Petitioner's assertions concerning the importance of improvements in automotive safety nationwide, it is not clear how the Beneficiary's specific role as a senior software engineer would bring about such changes. Again, the relevant question in considering a proposed endeavor's national importance is not based on the importance of the industry, field, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake."[8]

Apart from the Petitioner's speculative statements, the record does not contain evidence to substantiate that the Beneficiary's work as a senior software engineer would result in the realization of the overarching positive outcomes anticipated by the Petitioner, nor does the Petitioner adequately articulate how the proposed endeavor would have a prospective national level impact. The Petitioner has not sufficiently established the national importance of the proposed endeavor based on its potential job creation or impact on the U.S. economy, nor has the Petitioner provided adequate evidence to show that the endeavor would employ a significant population of workers in a particular region. The Petitioner has not shown that the proposed endeavor would offer a region or its population substantial economic benefits through employment levels, business activity, or tax revenue. Again, a petitioner must support assertions with relevant, probative, and credible evidence.[9]The Petitioner has not done so here.

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[8] *Id.* at 889.

[9] *See Matter of Chawathe*, 25 I&N Dec. at 376.

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. 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) (per curiam) (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. The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework and, therefore, has not established eligibility for a national interest waiver as a matter of discretion. The petition will remain denied.

ORDER: The appeal is dismissed.