U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39012042

Date: JUNE 26, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, who describes herself as a cybersecurity specialist, 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. SCOPS determined that the Petitioner qualifies as a member of the professions holding an advanced degree. However, SCOPS concluded that the record does not establish that a waiver of the job offer requirement, and thus of a 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

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 the proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

For the reasons discussed below, the record does not establish that the Petitioner qualifies for second preference classification, and that she is eligible for a national interest waiver, both of which are dispositive.

A. Second Preference Classification

The Petitioner did not clearly indicate whether she believes she qualifies for second preference classification as a member of the professions holding an advanced degree or as an individual of exceptional ability. *See* 203(b)(2) of the Act. Because the Petitioner does not assert—and the record does not support the conclusion—that the record satisfies at least three of the criteria at 8 C.F.R. § 204.5(K)(3)(ii) pertaining to exceptional ability, we address whether the Petitioner otherwise qualifies for second preference classification as a member of the professions holding an advanced degree.

The Petitioner filed the Form I-140, Immigrant Petition for Alien Workers, in September 2024. In response to SCOPS' subsequent request for evidence (RFE), the Petitioner submitted a copy of a "Degree of Master of Science: Cybersecurity and Information Assurance" that [redacted] awarded to the Petitioner in November 2024, and a corresponding transcript, covering "Term: Jun 2024 – Nov 2024." SCOPS noted the degree and concluded, "As such, the [Petitioner] has established that she qualifies as a member of the professions holding an advanced degree or equivalent."

A petitioner must establish eligibility for the benefit it is seeking at the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(1). A visa petition may not be approved based on speculation of future eligibility or after a petitioner becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998).

The degree in question is material to determining whether the Petitioner qualifies for second preference classification because it directly pertains to the criterion of an advanced degree or its equivalent. *See* 8 C.F.R. § 204.5(K)(2), *supra*. Because [redacted] awarded the Petitioner the

[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).

degree in question in November 2024 for coursework apparently completed also in November 2024, after the Petitioner filed the Form I-140 in September 2024, it presents a new set of material facts that did not exist at the time of filing. Therefore, the Petitioner's degree from [redacted] cannot—and does not—establish eligibility, and we withdraw SCOPS's conclusion to the contrary. *See* 8 C.F.R. § 103.2(b)(1); *Matter of Katigbak*, 14 I&N Dec. at 49; *Matter of Izummi*, 22 I&N Dec. at 176.

At the time of filing, the Petitioner submitted a copy of a "Degree of Bachelor of Science (Accounting)" that [redacted], Nigeria, awarded to the Petitioner, albeit using her maiden name, in April 2007. The degree is supplemented by two academic evaluation reports from World Education Services that reference the Petitioner's degree and list courses the Petitioner completed at [redacted]. One academic evaluation report indicates, in relevant part, "Canadian Equivalency Summary: Bachelor's degree (four years)," and the other indicates, in relevant part, "U.S. Equivalency: Bachelor's degree." However, the academic evaluation pertaining to U.S. equivalency also states in many places "NOT OFFICIAL." Both lists of coursework prominently bear [redacted] logo on every page; neither list bears insignia of [redacted] or otherwise indicates it is an official academic record.

To show that an individual is a professional holding an advanced degree through a combination of a bachelor's degree and five years of progressive post-bachelor's experience in the specialty, a Form I-140 must be accompanied, in relevant part, by an official academic record showing that the individual has a U.S. bachelor's degree or a foreign equivalent degree. 8 C.F.R. § 204.5(K)(3)(i)(B).

Neither academic evaluation is supplemented by an official academic record from [redacted]; rather, the academic evaluation reports list the Petitioner's academic coursework in lieu of an official academic record. Furthermore, as noted, the list of coursework corresponding to the U.S. equivalency evaluation specifically states that it—and the evaluation in general—is not official. Therefore, the record does not satisfy the plain language requirements of 8 C.F.R. § 204.5(K)(3)(i)(B).

Moreover, the lists of coursework for the respective academic evaluations present directly conflicting information that would undermine their reliability and sufficiency if they were otherwise valid. Specifically, the list of coursework pertaining to Canadian equivalency indicates that the Petitioner completed 137.5 undergraduate credits between 2000 and 2005, with "GPA: 3.18." However, the list of coursework pertaining to U.S. equivalency indicates that the Petitioner completed 121.5 undergraduate credits between 2000 and 2005, with "GPA: 3.21." The course titles and grades among both lists correspond, but the credit hours for the respective courses differ. Specifically, although the credit hours for the courses in which the Petitioner earned an A or a B+ are identical among both lists, the course in which the Petitioner earned a C+ is reduced by 1.0 credit on the list that pertains to U.S. equivalency, and the courses in which the Petitioner earned a B are reduced by 0.5 credits on that list, which, in turn, affects the average grade given the reduced weight. We further note that the record does not clarify why [redacted] did not award the Petitioner the degree until two years after the documents indicate she completed her undergraduate coursework. Similarly, the record does not clarify why [redacted] issued the degree to the Petitioner under her maiden name in 2007, despite the Petitioner also submitting documents she purports establish she changed her surname in 2004, following her 2003 marriage.

Because two academic evaluations prepared by the same academic evaluation company for the same degree earned by the Petitioner provide directly conflicting information regarding the number of credit hours the Petitioner completed, and because the number of credit hours the Petitioner completed are material to whether her degree is equivalent to a U.S. bachelor's degree, neither academic evaluation may be deemed reliable or sufficient. Furthermore, the doubt cast on the veracity of the academic evaluations minimizes the reliability and sufficiency of the remainder of the record. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (providing that doubt cast on any aspect of a petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition).

The record contains various certificates the Petitioner received; however, the record does not otherwise establish that the Petitioner earned any degree other than those already addressed. For the reasons discussed above, the record does not support the conclusion that the Petitioner earned at least a U.S. bachelor's degree or a foreign equivalent degree at the time she filed the Form I-140. *See* 8 C.F.R. §§ 103.2(b)(1), 204.5(K)(3)(i)(B).

Because the record does not establish that the Petitioner earned at least a U.S. bachelor's degree or a foreign equivalent degree at the time she filed the Form I-140, she cannot establish that she qualifies as a member of the professions holding an advanced degree by a combination of a qualifying degree and at least five years of progressive post-bachelor's experience in the specialty. *See id.* We note, however, that even if the record contained a qualifying bachelor's degree, it does not establish that the Petitioner's experience is in the specialty of her degree. Specifically, as noted above, the Petitioner's degree from [redacted] is in "accounting." However, the work experience that the Petitioner asserts qualifies includes working as an "Infosec & Compliance Specialist" for Intelex Technologies, as a "Sr. IT Gov. Risk & Compliance Analyst" for Scotia Bank, and as an "Information Security Specialist" for Kumbie Technologies. The descriptions of duties the Petitioner provides for her respective experience pertain to information technology; however, they do not appear to pertain to accounting, the specialty of her degree from [redacted]. Therefore, even if the record established the Petitioner had a qualifying degree at the time she filed the Form I-140, it would not establish that she has at least five years of progressive post-bachelor's experience in that degree's specialty. *See id.*

Based on the foregoing, the record does not support the conclusion that the Petitioner qualifies for second preference classification. *See* 203(b)(2) of the Act. This issue is dispositive; however, we will address SCOPS' basis for denying the Form I-140 below.

B. National Interest Waiver

Initially, the Petitioner described the endeavor as a plan to "enroll in courses to attain certifications aligned with local regulations and frameworks," "attend at least three major cybersecurity conferences, participate in monthly webinars hosted by industry leaders, and engage in active discussions on online platforms such as LinkedIn and Reddit," "conclude my master's degree in cyber security and information assurance at [redacted]," "pursue a higher degree in [f]orensics or a correlated area," and seek occupational promotions. The Petitioner did not initially clarify what her employment would entail, although she stated she would generally "leverage my expertise in standards such as SOC 2, ISO 27001, and NISI to enhance the security posture of US-based companies," and

that, around the fourth year, "I aim to pivot towards a senior position like Information Security Compliance Director . . . becoming a Chief Information Security Officer (CISO) or a similar executive-level position" by the fifth year.

SCOPS informed the Petitioner in the RFE noted above that the record does not establish how the proposed endeavor may "create jobs and generate revenue, impact the regional or national economy more broadly, or sufficiently affect or advance the field or industry more broadly (or have wider implications in the field), at a level commensurate with national importance," referencing the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. In the RFE, SCOPS requested the Petitioner to "submit a proposed endeavor and sufficient evidence to establish national importance."

In response to the RFE, the Petitioner stated, "My proposed employment in the US would focus on safeguarding critical information systems and ensuring regulatory compliance for organizations operating in sensitive sectors. I intend to achieve this through the operations of my cybersecurity business and consulting firm," a startup company she indicated she would "begin registering and organizing . . . as a business entity during my first year in the US." She asserted that she would work as her startup cybersecurity consulting services company's "chief cybersecurity specialist and director," and she would hire staff, which she would supervise, "[w]ithin the first six months of getting to the US." The Petitioner also submitted a business plan for her startup cybersecurity consulting services company.

In the denial notice, SCOPS acknowledged the Petitioner's RFE response, and observed, "It appears that the [Petitioner] is now intending to be working as an entrepreneur for her own company," noting that the Petitioner's "new proposed endeavor cannot establish eligibility," citing 8 C.F.R. § 103.2(b)(1), *supra*; *Matter of Katigbak*, 14 I&N Dec. at 49, *supra*; *Matter of Izummi*, 22 I&N Dec. at 176, *supra*. SCOPS noted that the Petitioner "introduced a new proposed endeavor in response to the RFE, rather than establishing the substantial merit and national importance of the proposed endeavor described in the initial petition," both of which are required by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. Based on those issues, SCOPS concluded that the Petitioner "is not eligible for, and does not merit, a national interest waiver as a matter of discretion," without addressing the second and third *Dhanasar* prongs. *See id.*

Because we determine that the record does not establish whether the proposed endeavor may have national importance, which is dispositive, we reserve our opinion regarding whether the proposed endeavor has substantial merit, and whether the record satisfies the second and third *Dhanasar* prongs. *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); *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).

On appeal, the Petitioner denies that she impermissibly "proposed a new endeavor when responding to the RFE. On the contrary, the response to the RFE with business plan was in keeping with the advice given by USCIS to show evidence of my proposed endeavor with a business plan." She also states on appeal, "I am not seeking the entrepreneurial pathway. I still intend to work as a cybersecurity specialist, and not as an entrepreneur. The business is a future plan."

In determining national importance under the first *Dhanasar* prong, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on "the specific endeavor that the [individual] proposes to undertake" and "we consider its potential prospective impact," looking for "broader implications." *Matter of Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or those with "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Matter of Dhanasar*, 26 I&N Dec. at 889-90.

We first note that the Petitioner's statements on appeal directly conflict with her statements in response to SCOPS' RFE. For example, on appeal, the Petitioner asserts that her proposed cybersecurity consulting services company "is a future plan" and that she is "not seeking the entrepreneurial pathway." However, the Petitioner stated in her RFE response, "I will begin registering and organizing [my startup cybersecurity consulting services company] as a business entity during my first year in the US." She also stated in her RFE response, "Within the first six months of getting to the US, operations by [the company] would have started with hiring some of the staff and marketing the business to organizations and agencies in the US." The record does not reconcile how founding a startup cybersecurity consulting services company is not entrepreneurial, as the Petitioner denies on appeal, nor does it reconcile how hiring staff within the first six months after the Petitioner enters the United States "is a future plan" rather than her immediate proposed endeavor.

The Petitioner's directly conflicting statements about the scope of the proposed endeavor, made in response to SCOPS' RFE and on appeal, cast doubt on the reliability and sufficiency of the Petitioner's statements in general, and of the remainder of the record. *See Matter of Ho*, 19 I&N Dec. at 591, *supra*. Coupling this doubt with the doubt already cast on the reliability and sufficiency of the record in general based on directly conflicting course lists, discussed above, we deem the record's overall veracity to be rather low.

Based on the plain meaning of the Petitioner's statements in response to SCOPS' RFE, the Petitioner materially changed the scope of the proposed endeavor in response to the RFE. For example, the Petitioner did not initially indicate that she would found a startup cybersecurity consulting services company. However, in response to the RFE, the Petitioner stated that, within the first six months of entering the United States, she would begin hiring staff to work for a startup cybersecurity consulting services company that she would begin registering and organizing within the first year upon entering the United States. As another example, the Petitioner initially indicated, "As I approach the fourth year, I aim to pivot towards a senior position like Information Security Compliance Director" of some unspecified employer, and that "[in] the fifth year, I set my sights on becoming a Chief Information Security Officer (CISO) or a similar executive-level position." However, in response to the RFE, the Petitioner stated that she would immediately work as her startup company's "chief cybersecurity specialist and director," which apparently is an executive-level position, within the first year of entering the United States.

Whether the Petitioner would found a startup cybersecurity consulting services company and directly employ workers or simply work at an existing company is material to determining whether the

proposed endeavor may have national importance because it pertains to the endeavor's potential to employ U.S. workers, as contemplated by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. Likewise, the point at which the Petitioner may obtain an entity's executive-level leadership position is material to determining whether the proposed endeavor may have national importance because it addresses when—and, indeed, whether—the Petitioner may accomplish broader implications through her proposed endeavor, as contemplated by the first *Dhanasar* prong. *See id.*

Because the Petitioner materially changed her description of the proposed endeavor in her statement made in response to SCOPS' RFE, that statement—and the Petitioner's RFE response more generally—impermissibly presents a new set of facts that cannot—and does not—establish eligibility. *See* 8 C.F.R. § 103.2(b)(1), *supra*; *Matter of Katigbak*, 14 I&N Dec. at 49, *supra*; *Matter of Izummi*, 22 I&N Dec. at 176, *supra*. Relatedly, the business plan for the startup company the Petitioner submitted in response to the RFE impermissibly presents a new set of facts that cannot—and does not—establish eligibility, and we need not address it further.

We now turn to the Petitioner's description of the proposed endeavor at the time of filing, which again bears minimal reliability and sufficiency for the reasons addressed above. As noted, the relevant question in determining national importance is not the importance of the industry, field, or profession in which an individual will work; instead, we consider whether the specific endeavor that an individual proposes to undertake may have sufficiently broad implications. *See Matter of Dhanasar*, 26 I&N Dec. at 889.

Much of the Petitioner's initial proposed endeavor entails self-enrichment, such as "enroll[ing] in courses to attain certifications aligned with local regulations and frameworks," "attend[ing] at least three major cybersecurity conferences, participat[ing] in monthly webinars hosted by industry leaders, and engag[ing] in active discussions on online platforms such as LinkedIn and Reddit," "conclud[ing] my master's degree in cyber security and information assurance at [redacted]," and "pursu[ing] a higher degree in [f]orensics or a correlated area." These aspects of the proposed endeavor may benefit the Petitioner, but the record does not establish how the Petitioner attaining certifications, attending conferences, participating in webinars, engaging in social media discussions, and completing post-graduate education may have national or even global implications within the field of cybersecurity, or any other field, such as those resulting from certain improved manufacturing processes; substantial positive economic effects; or other indicia of national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. Similarly, although the Petitioner's initial description of the proposed endeavor also entails pursuing career advancement as an information security compliance director and chief information security officer of some unspecified entity, the record does not establish how the Petitioner's personal career advancement may have national or even global implications within the field of cybersecurity, or any other field, or substantial positive economic effects, such as significant potential to employ U.S. workers. *See id.*

Without more, the record does not establish how the Petitioner's proposed endeavor at the time of filing, which generally entails enriching herself and advancing her career, has national importance as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver.

III. CONCLUSION

The record does not establish the Petitioner qualified for second preference classification at the time of filing. Additionally, as the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.