U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41574220

Date: MAR. 3, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a Ph.D. student in civil engineering, 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 that the record did not establish that a waiver of the job offer requirement is 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;
- The individual is well-positioned to advance their proposed endeavor; and

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

SCOPS determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. Based on the evidence in the record that the Petitioner possesses a master of science degree in civil engineering, we agree.[2] The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest under the analytical framework set forth in *Matter of Dhanasar*.

Regarding the Petitioner's eligibility for a national interest waiver, SCOPS determined that the Petitioner did not establish any of the three *Dhanasar* prongs. Regarding the first *Dhanasar* prong, SCOPS specifically concluded that the record contained competing explanations of the proposed endeavor and that the Petitioner therefore did not sufficiently define the endeavor or establish its national importance. On de novo review and for the reasons discussed below, we agree with SCOPS that the record does not establish the national importance of the proposed endeavor and we will dismiss the appeal on that basis.

The Petitioner stated in the initial filing that his proposed endeavor is "to contribute to the modernization and digitization of U.S. rail systems by developing and deploying advanced technologies such as real-time positioning, IoT integration, and automated operations." The Petitioner stated that he is working toward a Ph.D. in civil engineering and is employed as an engineer at [redacted]. The Petitioner stated that in the short term, he intends to continue developing his technical skills at [redacted] and that in the long-term he intends to "transition back to the rail industry" to take a leadership role in "designing, developing, and deploying innovative rail automation and digitization projects."

In response to SCOPS' request for evidence (RFE), the Petitioner provided an updated personal statement in which he stated that the proposed endeavor is "to modernize and improve the safety, efficiency, and automation readiness of U.S. rail systems by advancing high-fidelity, cyber-secure train positioning as the digital foundation for a wide range of next-generation rail applications." The Petitioner reiterated in the RFE response that he will continue to work at [redacted] as a software development engineer in the short-term and then seek to work in the railway industry, either through "direct employment" or as an "independent subject-matter expert."

The Petitioner also submitted an "EB2 Professional Plan" in response to the RFE. The plan claims to be a business plan that outlines the Petitioner's background, his proposed services, and the potential impact of his endeavor. The plan restates much of the Petitioner's personal statement and additionally states that the Petitioner's "long-term plan includes founding a U.S.-based company focused on secure train positioning systems, telemetry infrastructure, and predictive maintenance technologies." The plan further states that the business will "commercialize innovations he has developed, file for

[2] The record shows that the Petitioner also possesses the foreign equivalent of a bachelor's degree in electronic engineering and information systems.

intellectual property protection where applicable, and create specialized jobs across software engineering, data analytics, system integration, and technical support."

On appeal, the Petitioner claims that SCOPS relied on "isolated language" in the Petitioner's professional plan to claim that the record is unclear as to whether he is pursuing an entrepreneurial-based endeavor or whether he seeks employment. The Petitioner contends that he is not seeking to launch a new venture, and he additionally claims that the endeavor's national importance is established whether he implements the endeavor through his employment at [redacted] as a consultant, or through another vehicle. Further, he maintains that his employment at [redacted] is relevant to his proposed endeavor because it "serves as a necessary advanced training ground" and a "symbiotic vehicle for acquiring the tools necessary to modernize U.S. rail infrastructure." The Petitioner also clarifies his proposed endeavor again. He provides the following as his proposed endeavor on appeal:

> My proposed endeavor is to utilize high-throughput cloud telemetry and secure data integration pipelines, combined with edge-computing architectures, to develop advanced multimodal sensor-fusion algorithms for precise rolling stock positioning and localization in the rail and transit industry.
>
> My work focuses on advancing resilient, centimeter-level train positioning algorithms—specifically maintaining accuracy in GPS-denied, connectivity-limited, and condition-degraded rail environments. This work supplies enriched live operational intelligence to enhance rail safety, network reliability, and automation readiness. By providing real-time train location awareness, precisely geo-stamped metrics, and advanced fault prediction, this endeavor directly prevents derailments, improves on-time performance, increases capacity, and strengthens the resilience and security of U.S. critical rail infrastructure.

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.*

First, we acknowledge the Petitioner's claim that the "vehicle" through which he pursues his endeavor is separate from the endeavor itself. We recognize that an individual's proposed endeavor differs from their occupation. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual (explaining that an endeavor is more specific than the general occupation and that we focus on what the person will be doing rather than the specific job title or occupational classification). Nevertheless, we agree with SCOPS that the Petitioner's intended employment is relevant insofar as it may influence the potential prospective impact of an endeavor. *See id.* (stating that when explaining their endeavor, the petitioner should clearly lay out the potential direct impacts of the endeavor and whether the endeavor will be furthered through the course of the person's duties at a particular employer or in some other way). How an individual intends to pursue their proposed endeavor may

be material to the endeavor's potential prospective impact, and therefore whether the record establishes the endeavor's national importance.

Moreover, we agree with SCOPS that the Petitioner presented inconsistent evidence regarding how he intends to implement the endeavor, which impedes our ability to ascertain its potential prospective impact. First, although the Petitioner asserts on appeal that he does not intend to pursue an entrepreneurial-based endeavor, the Petitioner does not provide an explanation for why he presented a professional plan which states that he will do so. Second, although the Petitioner continues to maintain that his employment as an engineer at [redacted] will further the proposed endeavor, the record does not demonstrate that the Petitioner's work at this company—an [redacted]—is related to improving U.S. railway safety or security. The Petitioner claims that this employment will help him gain the skills necessary to pursue the endeavor, but this claim does not establish that the employment furthers the endeavor itself. Therefore, the Petitioner's stated intent to continue this employment appears contrary to the Petitioner's claim that he intends to pursue the endeavor itself. Finally, we note that the Petitioner has provided varying characterizations of the proposed endeavor in the initial filing, in response to the RFE, and now on appeal. Although all of these statements relate to improving and modernizing the U.S. railway system, the Petitioner's continued restatements and clarifications of the proposed endeavor do not demonstrate that the Petitioner possessed a focused, single proposed endeavor at the time of filing the petition. *See* 8 C.F.R. § 103.2(b) (a petitioner must establish eligibility at the time of filing and continue to be eligible through adjudication).

We acknowledge the evidence in the record related to the U.S. railway system as critical infrastructure and the importance of new technologies to improve signaling systems. We also recognize the importance of cybersecurity in the U.S. railway system, as railways increasingly shift to cloud-based digital technology and therefore become more vulnerable to cyber threats. However, given the evidence in the record of competing or unrelated pathways that the Petitioner plans to pursue this proposed endeavor—software engineering at [redacted], establishing a company in the United States, or pursuing other employment in the industry—the Petitioner has not established how he will implement the endeavor and therefore has not demonstrated that the potential prospective impact rises to the level of national importance.

The Petitioner has described his intended goal of improving safety and security for U.S. rail systems. Additionally, he has provided multiple avenues through which he may pursue this endeavor. However, he has not consistently nor clearly explained how he intends to pursue his endeavor, therefore has not and sufficiently supported his claims that his proposed endeavor has the potential to have the claimed impact on the U.S. rail system, its safety, or its security. The Petitioner bears the burden of proof to demonstrate eligibility. *Matter of Chawathe*, 25 I&N Dec. at 375-76. Given the lack of clarity in the record, the Petitioner has not done so here. Therefore, he has not sufficiently established that his proposed endeavor in the United States has national importance under the first *Dhanasar* prong.

III. CONCLUSION

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prongs. *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).

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.