U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41977486

Date: MAR. 16, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a software 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 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 upon obtaining a master of science degree in electrical and computer engineering. SCOPS denied the petition, however, finding that the Petitioner did not establish eligibility under any of the three required prongs of the *Dhanasar* analytical framework. Based on our de novo review of the record, we agree with SCOPS that the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Matter of Dhanasar*. Specifically, we conclude that the Petitioner has not sufficiently demonstrated the national importance of the proposed endeavor as required by the first *Dhanasar* prong, and we will dismiss the appeal on that basis.

The Petitioner's proposed endeavor is to "further research and development in computer systems focusing on machine learning at the edge and hardware-software interfaces." The Petitioner described "edge AI" as the application of artificial intelligence on devices closer to the external environment, explaining that edge AI implementations "must compromise between time-to-market with off-the-shelf solutions and optimized solutions with expert custom designs." The Petitioner is currently employed as an embedded software engineer at [redacted]. The Petitioner stated that his work at [redacted] is to "facilitate new AI capabilities on devices currently supported, facilitate AI capabilities on new devices, and improve current device capabilities." The Petitioner states that his work at [redacted] "enhances edge AI deployment with faster product-to-market and lower cost through optimizing on low-cost edge devices" and "enfranchises software programmers to generate optimized, customized edge deployment with edge AI expertise." The Petitioner states that he intends for his research and development to extend AI capabilities on edge hardware and to lower technical barriers to entry thereby extending edge AI users.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

On appeal, the Petitioner submitted a brief and additional evidence. The Petitioner asserts that SCOPS did not provide sufficient analysis as to the basis for the denial and did not fully explain the reasons for denying the petition. The Petitioner also asserts that SCOPS erred by not following the *USCIS Policy Manual* as it relates to proposed endeavors in science, technology, engineering, and mathematics (STEM) fields. The Petitioner also claims that SCOPS erred by misapplying the framework provided in *Matter of Dhanasar*, particularly in analyzing whether the evidence establishes the national importance of the "specific" endeavor. The Petitioner maintains that he has established both the substantial merit and the national importance of his proposed endeavor.

First, we consider the Petitioner's claim that that SCOPS did not sufficiently explain the basis for the denial, and his claim that the RFE did not sufficiently explain why the evidence already submitted was

deficient. The Petitioner claims that the RFE and the decision only provide "generic" language, do not review all the relevant, specific facts and circumstances, and fail to adequately explain the reasons why the evidence was insufficient and the reason for denial. In support of this claim, the Petitioner cites to several non-precedent decisions of the AAO in which we concluded that SCOPS' decisions were insufficient and remanded the matters for various reasons, including that SCOPS did not sufficiently discuss or analyze the evidence in the record, discussed evidence that was not in the record, or made other factual errors.

We note that these decisions were not published as precedent and therefore do not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Nevertheless, we agree that when denying a petition, SCOPS must explain the specific reasons for the denial. 8 C.F.R. § 103.3(a)(1)(i). Additionally, the decision must be sufficient to provide the petitioner with a fair opportunity to contest the decision and us an opportunity for meaningful appellate review. *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). However, following review of the record we conclude that the decision here sufficiently analyzed and discussed the evidence in the record and provided the Petitioner with a fair opportunity to contest the reasons for denial. Moreover, we conduct a de novo review and have considered the evidence in the record in full. While we may not discuss each piece of evidence in the record in our decision, we have reviewed and considered each one.

As to the additional evidence presented on appeal, we decline to consider the Petitioner's new evidence for the first time on appeal. The Petitioner notes that the AAO Practice Manual permits new evidence on appeal, and that the evidence need not be new or previously unavailable. *See generally AAO Practice Manual*, Ch. 3.8(b), https://www.uscis.gov/administrative-appeals/aao-practice-manual. However, in this instance the Petitioner was put on notice of the evidentiary deficiencies and given a reasonable opportunity to provide this evidence. As such, we will not consider the evidence for the first time on appeal. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)); *see also* 8 C.F.R. § 103.2(b)(11) (requiring that in response to a request for evidence or notice of intent to deny, all evidence must be submitted together at one time and that submitting only some of the requested evidence will be considered a request for a decision on the record).

We turn now to the Petitioner's specific claims regarding his eligibility for a national interest waiver. First, the Petitioner claims that SCOPS erred in how it analyzed the national importance of the "specific endeavor." The Petitioner states that in *Matter of Dhanasar*, we determined that the support letters from relevant experts, as well as the documentation of government interest in the petitioner's research area were sufficient to establish the national interest of the petitioner's proposed endeavor. The Petitioner states that we did not indicate in *Matter of Dhanasar* that the petitioner's proposed endeavor was "specifically discussed" in the documentation and that similar evidence—expert letters and evidence of government interest in his research area—is provided here to establish national importance.

We do not find support for the Petitioner's claim that the evidence in the record here is similar to the evidence described in *Matter of Dhanasar*. Here, the Petitioner claims that his proposed endeavor of

researching and developing edge AI solutions for his employer furthers national security interests, based on the Department of Defense's interest in this area and related U.S. Army competitions. But the record lacks sufficient probative, credible documentary evidence to demonstrate that the Petitioner's proposed endeavor has the potential to impact the field of edge AI, or national security, at a level commensurate with national importance.

The Petitioner submitted a letter of support from S.C.,[2] the co-founder and [redacted] who claims that the Petitioner's work has "applications for national security." S.C. states that the Petitioner led the development of a compiler technology that allows AI processing on smartphones and claims that these smartphones "may be used by the Department of Defense's [redacted]" S.C. further states the compiler technology was used in products demonstrated by a U.S. Navy joint exercise in [redacted] and could be used to support the U.S. Space Force. Another letter of support, from A.L., the director of compilers and embedded systems at [redacted] reiterates some of these claims. But the record lacks documentary evidence to support these claims or to otherwise demonstrate the interest of the U.S. armed forces or the Department of Defense in the Petitioner's technological developments.

Instead of providing documentary evidence to establish these claims, the Petitioner provided evidence that [redacted] has participated in challenges such as those hosted by the U.S. Army. The evidence shows that the U.S. Army holds competitions to encourage organizations, research centers, universities, and other entities to compete to develop potential technological solutions, including those that involve AI. The evidence does not show that the Petitioner's specific area of research, edge AI computing, has been integral to [redacted] participation in these competitions or the company's presented solutions, or that this area of research has been a particular focus of these competitions. The Petitioner also submitted scholarly articles about edge AI, the internet of things (IoT), and resource constrained devices, and reports such as a McKinsey report on edge computing, a White House Fact Sheet on enhancing America's AI leadership, and reports about the importance of foreign skilled workers.

By contrast, in *Matter of Dhanasar*, the petitioner submitted "probative" letters from experts "holding senior positions in academia, government, and industry" that describe the importance of the petitioner's area of research "as it relates to U.S. strategic interests." *Matter of Dhanasar*, 26 I&N Dec. at 892. The petitioner also submitted evidence demonstrating the interest of the House Committee on Armed Services in "the development of hypersonic technologies" and the potential significance of U.S. advances in this area of research and development. *Id.* Although the Petitioner submitted scholarly articles about his area of research and letters of support from his employer that claim that his work is of national importance, the record lacks the type of credible, probative evidence we found persuasive in *Matter of Dhanasar*.[3]

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[2] We use initials to protect individuals' privacy.

[3] The *USCIS Policy Manual* states that "[b]enefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a person's endeavor has national importance." *See generally* 6 *USCIS Policy Manual* F.5(D)(3), www.uscis.gov/poliy-manual. The *Policy Manual* further states that "a person developing a particular technology for use or sale by a given company may not be able to establish national importance based on evidence that this technology will have benefits for the company or its clients alone" and that to establish broader implications at a level consistent with national importance, the petitioner could demonstrate "widespread interest in

The record also contains a support letter from S.A., a professor in the Department of Electrical Engineering and Computer Science at [redacted]. S.A. discusses some of the research the Petitioner participated in during his master's degree program, and states that he was impressed by the solution presented in one of the Petitioner's publications. However, S.A. does not discuss the potential prospective impact of the Petitioner's proposed endeavor at [redacted]. He states only that his work at [redacted] is "another example of his innovative work." But this statement lacks sufficient specificity about the endeavor itself or its potential prospective impact to be credible or persuasive in establishing its national importance.

The Petitioner also provided two letters of support from professors at [redacted], where he completed his master's degree program. Again, these letters discuss the importance of the Petitioner's prior research work completed during his degree program, but they do not sufficiently support the potential prospective impact of the Petitioner's proposed endeavor as an employee of [redacted]. More specifically, they do not support the Petitioner's claims about the use of or interest in the Petitioner's research and development work by the U.S. Army or other agencies in the Department of Defense.

As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, these support letters primarily discuss the Petitioner's research work as a graduate student, rather than his proposed endeavor as an employee of [redacted] or its potential prospective impact.

Finally, the Petitioner asserts on appeal that SCOPS did not afford sufficient weight to the *USCIS Policy Manual* guidance regarding proposed endeavors that relate to STEM fields. While USCIS recognizes specific evidentiary considerations relating to STEM degrees and fields, particularly critical and emerging technologies (CETs), "the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." *See generally* 6 *USCIS Policy Manual*, at F.5(D)(4), www.uscis.gov/policy-manual. Here, as discussed above, the record lacks sufficient documentary evidence to support the potential prospective impact of the Petitioner's proposed endeavor.

The Petitioner's claims on appeal do not overcome the basis for SCOPS' findings as they relate to the national importance of the proposed endeavor. Moreover, upon de novo review, we agree that the Petitioner has not established the national importance of the proposed endeavor. Because the documentation in the record does not establish the national importance of the proposed endeavor, as required by the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion regarding his eligibility under the second or third *Dhanasar*

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adoption or licensing of the technology, a novel and important manufacturing or operational process, or how the technology stands to impact the development of similar technology by other companies." *See id.* The record here lacks documentary evidence to establish this type of widespread interest in the Petitioner's proposed endeavor, that it is novel and important, or that it stands to impact the field.

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).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

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.