U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41001430

Date: MAR. 19, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an 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 EB-2 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 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 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.

Id.

II. ANALYSIS

As an engineer who manages offshore energy projects for [redacted] a global energy company, the Petitioner's proposed endeavor is to continue his work applying advanced analytical and reliability frameworks to improve offshore system performance. Using digital-twin modeling and predictive analytics, the Petitioner intends to modernize offshore infrastructure to avoid equipment failure and downtime, extend equipment operability, improve safety, and reduce methane emissions. His methodologies aim to address challenging environments to facilitate the extraction of energy resources from otherwise inaccessible locations.

SCOPS concluded that the Petitioner qualifies as a professional holding an advanced degree. The record supports that conclusion; the Petitioner has two foreign master's degrees in industrial technology and mechanical engineering. The remaining issue to be determined 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. For the reasons discussed below, we will withdraw SCOPS' determination that the Petitioner did not demonstrate the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework. Regarding *Dhanasar's* second prong, we agree with and will not disturb SCOPS' conclusion that the Petitioner sufficiently demonstrated that he is well positioned to advance his proposed endeavor. Concerning whether, on balance, a waiver would be beneficial to the United States, we conclude that the Petitioner has not established that it would be beneficial to waive the requirements of a job offer and, thus, of a labor certification.

A. Substantial Merit and National Importance of the Proposed Endeavor

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual 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. *Id.* We agree with SCOPS' conclusion that the Petitioner's proposed endeavor has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We withdraw SCOPS' determination that the Petitioner did not establish the national importance of his proposed endeavor under *Dhanasar's* first prong. As evidence that his proposed endeavor has substantial merit and national importance, the Petitioner provided information about the oil and gas industry and challenges related to safety and efficiency for offshore energy extraction. He presented evidence of how his use of adaptive technologies and methodologies to address these challenges would have broader implications for U.S. energy security and job creation spanning several fields. Because the Petitioner has demonstrated both the substantial merit and national importance of his proposed endeavor, he has established that he meets the first prong of the *Dhanasar* framework.

B. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the individual. To determine whether an individual is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge, and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id* at 890.

The Petitioner submitted evidence of his advanced education and specialized training in his field, as well as evidence demonstrating more than two decades of experience working in the oil and gas industry. He also submitted evidence demonstrating the significance of his prior work and showing that his expertise has been recognized in his field. Because the Petitioner has demonstrated that he is well positioned to advance his proposed endeavor, he has established that he meets the second prong of the *Dhanasar* framework.

C. Whether on Balance a Waiver is Beneficial

The third prong requires a petitioner to demonstrate 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. *Matter of Dhanasar*, 26 I&N Dec. at 890-91. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. *Id.* In each case, the factor(s) considered must, taken together, 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. *Id.* at 891.

On appeal, the Petitioner asserts that SCOPS failed to perform the balancing analysis required under *Dhanasar* in denying his petition, stating that SCOPS did not articulate a reasoned decision. We agree that SCOPS' discussion of whether the Petitioner satisfied *Dhanasar's* third prong consists of conclusory statements without fuller analysis.

As stated above, factors we may consider in evaluating whether an individual meets *Dhanasar's* third prong include the urgency of the national interest in the individual's contributions and whether the United States would benefit from those contributions regardless of the availability of other qualified U.S. workers. The Petitioner has not previously discussed this latter factor, nor does he address this factor on appeal. Regarding the former factor, the Petitioner previously submitted evidence in the form of expert letters and reports on the industry and on projects he has led to demonstrate that the national interest in his contributions is sufficiently urgent, and he submits additional expert letters on appeal attesting the same. The reports and the letters speak to the need to address the risks associated with aging offshore infrastructure to extend the service life of high-value assets and to avoid production downtime resulting from equipment failure, which can disrupt supply chains, spike energy prices, and lead to costly environmental consequences. This documentation also highlights the urgency of applying methane mitigation technologies to old and new infrastructure to reduce

greenhouse gas impacts. The documentation further speaks to the need to meet growing energy demands by taking advantage of modernization opportunities to optimize energy production. Finally, the documentation shows that the Petitioner's contributions could lead to the acquisition of otherwise unattainable assets to help the United States meet recent offshore expansion goals and strengthen energy independence. However, although the record conveys a level of urgency for the Petitioner's contributions through advancement of his proposed endeavor, it is not clear that the national interest in those contributions is sufficiently urgent to require their implementation prior to completion of the labor certification process.

Whether the record demonstrates the impracticality of a labor certification is another factor we may consider. *Id.* at 890. Review of the record shows that, in response to a request for evidence (RFE), the Petitioner outlined a plan for how he intended to continue his proposed endeavor in the United States. He stated, "Building on my current leadership role under L-1A status in [redacted], I will expand the proven systems I applied during the [redacted] to serve U.S. offshore assets." He further stated that the labor certification "anchors one worker to one employer; my role spans three Gulf operators under joint-development MOUs." He added that a "job offer would restrict my ability to collaborate across sectors and quickly deploy critical technologies" and that his "endeavor requires flexibility, not the constraint of a job offer." However, the Petitioner's RFE response does not explain how the filing of a labor certification by a company that will employ him would limit his ability to continue and expand upon his current work.

On appeal, the Petitioner states that the labor certification process is structurally incompatible with his proposed endeavor because his digital-twin and methane-reduction frameworks are cross-organizational systems requiring real-time data integration between operators, contractors, and regulatory bodies. He states that because his efforts are carried out through collaboration among multiple independent organizations, "[n]o single employer controls these projects." He explains that each organization "contributes different components under shared technical standards and safety rules. That structure is what makes traditional labor certification unsuitable."

The Petitioner indicates that the involvement of several organizational entities in the projects he manages and those he intends to manage is an impediment to the participation of a single employer in the labor certification process in order to hire him. He cites evidence previously provided in the record, including documentation of his past projects and letters of endorsement. This evidence delineates the significance of his proposed endeavor and demonstrates that he is well positioned to advance his endeavor, establishing that he has met the first and second prongs described in *Matter of Dhanasar*.

However, concerning *Dhanasar's* third prong, it remains unclear how the involvement of multiple organizations in the Petitioner's work precludes an employer from the labor certification process. The Petitioner cites a letter from [redacted] Director of Global Exploration, which notes that "the multi-stakeholder nature of these projects 'cannot operate within a single-employer structure without undermining collaboration and efficiency'. . . ." The Petitioner states that "[n]o single U.S. employer could lawfully sponsor and control such multi-entity technical implementation" and that requiring a labor certification "would fragment these systems and delay deployment of proven emission-reduction and reliability gains." He does not, however, elaborate on either of these arguments. As the Petitioner noted, he is currently in the United States in L-1A status sponsored by a U.S. subsidiary employer. Letters from individuals at [redacted] and from other organizations indicate that he has been collaborating

with multiple operators on various projects, and it is not clear why filing the labor certification would disrupt his existing working relationships. The Petitioner maintains on appeal that the evidence shows that the public and national benefits of his continued work "outweigh any theoretical benefit of requiring a traditional job-offer and labor-certification process." However, he has not provided adequate reasoning for his argument that the labor certification process is structurally incompatible with his proposed endeavor.

We also consider whether the record documents interest in an individual's proposed endeavor from government agencies or quasi-governmental entities in the United States.[2] Letters of interest from one or more of these agencies or entities can help explain how granting the waiver may outweigh the benefits of the job offer and labor certification requirement by, for example, explaining a particular urgency, or by detailing how the United States would benefit from an individual's contributions, even if other U.S. workers are available. Although the record contains several detailed letters of endorsement from experienced individuals in the field, it does not contain evidence of interest from government agencies or quasi-government entities that would support waiving the requirements of a job offer.

Finally, we add that USCIS recognizes the importance of progress in areas relating to science, technology, engineering and mathematics (STEM), and in combination with other STEM-related facts in the record, we consider possession of a Doctor of Philosophy (Ph.D.) to be a strong positive factor.[3] Here, however, the record does not show that the Petitioner has a Ph.D.

We therefore conclude that, on balance, it would not be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. The Petitioner has not established eligibility under the third prong of the *Dhanasar* analytical framework.

III. CONCLUSION

The Petitioner has not demonstrated 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. As the Petitioner has not met the requisite third prong of the *Dhanasar* analytical framework, he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

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.

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[2] *See generally* 6 *USCIS Policy Manual* at F.5(D)(4), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5.
[3] *Id.*