U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38150597

Date: MAY 6, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a market researcher, 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.

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;

[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).

- 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

SCOPS determined that the Petitioner qualifies as a member of the professions holding an advanced degree. However, for the reasons discussed below, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong.

The Petitioner generally described the proposed endeavor as a plan "to continue [my] research on employing cutting-edge empirical methods across behavioral and cognitive sciences, philosophy, linguistics, and marketing to reveal the psychological underpinnings of social groups, norms, attitudes, and decision-making, in order to advance theoretical frameworks and generate impactful insights for product user experience and marketing strategies." Initially, the Petitioner specified that his endeavor would entail continuing his "ongoing research at [redacted]." However, in response to a request for evidence, the Petitioner indicated that his employment at [redacted] ended and, instead, his endeavor would entail conducting research through his "current employment at [redacted]." The Petitioner's description of his market research duties at [redacted] are generally similar to his former duties at [redacted], albeit pertaining to a different employer and different sets of products, clients, customers, business partners, and users. He asserted that his research "will not only be beneficial for specific products but also for the industry and the US public through publications in peer-reviewed journals and conferences."

SCOPS determined that the record does not establish that the proposed endeavor has either substantial merit or national importance, both of which are required by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. SCOPS opined, "It appears that the [P]etitioner's proposed endeavor has changed," based on his change in employment after he filed the Form I-140, Immigrant Petition for Alien Workers. SCOPS also noted that "the evidence does not support the [P]etitioner's statements that the proposed endeavor will have potential prospective impact," referencing the national importance aspect of the first *Dhanasar* prong. SCOPS further concluded that the record does not satisfy 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 record establishes the proposed endeavor has substantial merit and whether it 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 asserts that SCOPS erred by conflating his "proposed employment and proposed endeavor." Instead, the Petitioner states that "the responsibilities and research projects in both jobs . . . are remarkably similar" and, thus, he "has not made any material changes to his proposed endeavor." He further reasserts that the record satisfies the three *Dhanasar* prongs.

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.

Although the Petitioner's employment changed after he filed the Form I-140, because his market research duties are generally similar to each other for both his former and current employers, the record establishes that his change of employment itself does not materially change what the proposed endeavor would be. Therefore, we withdraw SCOPS' statements to the extent that they indicate the Petitioner's change of employment impermissibly altered the proposed endeavor after he filed the Form I-140.

Nevertheless, the record does not otherwise establish that the proposed endeavor will have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong. In addition to providing personal statements regarding his proposed endeavor, the Petitioner submitted, in relevant part, the following documents: copies of the 21st Century Integrated Digital Experience Act of 2018 and the Digital Equity Act of 2021; a Department of Homeland Security document related to social media dated 2018; a Surgeon General advisory regarding social media dated 2023; reports published by the Pew Research Center regarding social media usage and news platforms dated 2021 and 2024, respectively; an article published by Medium generally discussing user experience dated 2023; and an article published by Statista generally discussing marketing in the United States dated 2024. The documents provide general information regarding information technology, market research, and related topics. However, none of the documents discuss the Petitioner, the specific endeavor he proposes to undertake, and whether the specific endeavor may have national or even global implications within the field of market research, or any other field, such as those resulting from certain improved manufacturing processes or medical advances, significant potential to employ U.S. workers, or other indicia of national importance, limiting their probative value. *See id.* We note that, as in all national interest waiver cases, a proposed endeavor involving information technology must demonstrate both substantial merit and national importance through its broader implications, beyond the general importance of the industry, field, or profession. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual.

We acknowledge that the Petitioner indicated he intends to share some of his future research in unspecified peer-reviewed journals and conferences; however, the record does not establish that, more likely than not, doing so would have national or even global implications within the field of information technology, market research, or any other field, beyond simply engaging in ordinary research activities similar to all other market researchers. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90; *see also Matter of Chawathe*, 25 I&N Dec. at 376 (providing that a petitioner must establish that a claim is more likely than not true). In turn, the Petitioner does not assert—and the record does not support the conclusion—that his proposal to continue conducting market research for a given

employer may have significant potential to employ U.S. workers or other substantial positive economic effects. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. Rather, the record indicates that the proposed endeavor's effects will be primarily confined to his employer and its clients, customers, business partners, and users of its products. Considered in its entirety, the record does not establish that the potential prospective impact of the specific endeavor the Petitioner proposes to undertake may have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong. *See id.*

III. CONCLUSION

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.