U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38257437

Date: MAY 15, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a staff product manager, 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).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner met the requirements for a waiver of the job offer and labor certification requirements for EB-2 classification. 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 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 their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

SCOPS determined that the Petitioner qualified as an Alien with an advanced degree based on her 2016 Master of Science degree from [redacted] The remaining issue on appeal is whether the Petitioner has satisfied the requirements of *Dhanasar*.

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.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

The Petitioner seeks to continue employment as a staff product manager with [redacted] a division of the [redacted] dedicated to advertising, developing privacy solutions in compliance with evolving digital privacy laws and regulations. The Petitioner's proposed endeavor is to continue development of a "cookie" free environment by developing an Artificial Intelligence (AI) driven advertising system. The Petitioner argues that her proposed endeavor is nationally important because it aligns with several government initiatives regarding cybersecurity and data protection. In addition, the Petitioner argues that her role allows her to "drive innovation in privacy-centric advertising technologies." She further states that her work is essential to connecting consumers with small and medium sized businesses who advertise on [redacted] website and "promotes a diverse and resilient economy."

In support of these assertions the Petitioner provided information related to the digital advertising industry, and a now revoked executive order regarding AI development[2], articles related to online privacy concerns, industry articles related to the use of third party cookies and letters of recommendation from individuals working in the digital advertising industry. The letters describe the Petitioner and her work but speak more to the Petitioner's position to advance her endeavor than to the national importance of the endeavor itself.

The Director issued a request for evidence, stating that the Petitioner had not established that her proposed endeavor would have benefits outside of her immediate organization and their customers. In response to the RFE, the Petitioner argues that [redacted] impact on the U.S. economy, including in economically depressed areas, amplifies the importance of the Petitioner's work. The Petitioner further argues that privacy and concern for personal data are important issues for U.S. consumers in the digital advertising space. The Director determined that the Petitioner had not established that the benefits of her work would be felt outside the company she works for or advance the field of privacy centric advertising sufficient to rise to the level of national importance.

[2] On January 20, 2025 Executive Order 14110: Safe Secure and Trustworthy Development and Use of Artificial Intelligence was revoked.

On appeal, the Petitioner reiterates that she believes she has met the requirements of *Dhanasar* by a preponderance of the evidence. She again highlights the importance of [redacted] to the national economy, the level of consumer interest in safeguarding personal data in a digital environment, and her endeavor's alignment with the broader goals of the U.S. government around data protection and cyber security.

We acknowledge the Petitioner's claims that [redacted] is an integral part of the U.S. economy that employs more than a million individuals and can be a catalyst for improved economic growth in rural areas in which it operates, along with the fact that they have an annual ad revenue in excess of $3 billion with their digital advertising reaching more than 150 million Americans each year. However, benefits to a specific employer alone, even an employer with a national footprint, are not determinative of whether a person's endeavor has national importance. USCIS Policy Alert PA-2025-03, *Second Preference Eligibility for National Interest Waiver Petitions* 13 (Jan. 15, 2025), https://www.uscis.gov/policy-manual. At issue is whether the petitioner can demonstrate that their own individual endeavor stands to have broader implications, such as for a field, a region, or the public at large.

USCIS policy provides additional guidance relevant to the current Petitioner, it states:

> As an example, 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. To establish broader public or commercial implications at a level consistent with national importance for this field or industry, a petitioner could demonstrate, through the submission of relevant evidence, widespread interest in 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. *Id.*

Here, the Petitioner has not claimed, or presented evidence to establish, that the development of [redacted] advertising privacy solution would be shared with the broader industry in a way that would impact the development of similar products or that it would seek to monetize its internally developed solution sufficient to rise to the level of national importance. Moreover, while the Petitioner presented statistics on the number of individuals who are concerned with the use of their data online, she did not establish the impact her specific work for her employer would have in allaying the fears of those individuals.

To evaluate whether the Beneficiary's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of her work. *Id.* at 889. While the Petitioner's statements reflect her intention to provide privacy-centric advertising services for her employer, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of national importance because they would not impact his field more broadly. *Id.* at 893. Here, we conclude the record does not show that the Petitioner's specific proposed endeavor stands to sufficiently extend beyond her employer and its operations to impact the field of privacy centric advertising, the U.S. advertising industry, societal welfare, public safety, or our country's economy more broadly at a level

commensurate with national importance. Nor has the Petitioner demonstrated that her specific undertaking offers broader implications in the advertising, artificial intelligence, or cyber security industries.

Additionally, the Petitioner has not shown that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. While the Petitioner asserts that the national importance of her endeavor is evident from the scope of [redacted] operations, it has not demonstrated that the economic implications of its privacy centric advertising would be attributable to the Petitioner's specific projects to an extent that her proposed work holds national importance. Here, the Petitioner has not shown that the wider economic effects attributable to [redacted] are the result of her specific proposed endeavor. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to the Petitioner's specific proposed work, the Petitioner has not shown that the benefits to the U.S. regional or national economy resulting from her projects would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

The Petitioner has not established that her proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field or industry, or has other broader implications indicating national importance. Because the documentation in the record does not establish the national importance of the Beneficiary's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated her eligibility for a national interest waiver. As this issue is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of the Beneficiary's eligibility under the second and third prongs of the *Dhanasar* framework. *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

As the Beneficiary has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.