U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30556449

Date: MAY 27, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, 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 Petitioner established that he is an advanced degree professional but 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 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. Additionally, for the reasons discussed below, we find that the Petitioner is inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), because he, by willfully misrepresenting a material fact, sought to procure a benefit under the Act.

I. LAW

To qualify for the underlying EB-2 visa classification, a petitioner must establish he or she is 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, he or she must then demonstrate that he or she merits 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:

[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 proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- 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 the Petitioner qualifies as a member of the professions holding an advanced degree and we agree with this determination.[2] Thus, the issue on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

At the time of filing his petition, the Petitioner was working as a chief engineer in the sustainable building studio of the [redacted] China. The Petitioner proposes to carry out research and development (R&D) in his field of architectural engineering, and to promote the implementation and commercialization of his R&D. With his initial statement, he expressed an interest in preparing a research proposal to work in an R&D position at a U.S. national research laboratory and provided several examples of laboratories where he wishes to work. Alternatively, he explained that he would endeavor to have an engineering position at a university, or in the building technology department of a high technology company.

SCOPS determined that the Petitioner demonstrated the substantial merit of the proposed endeavor but not its national importance. SCOPS further determined that the Petitioner did not establish that he is well-positioned to advance his proposed endeavor or 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, under prongs two and three (respectively) of the *Dhanasar* analytical framework. On appeal, the Petitioner contends that SCOPS failed to consider the totality of the evidence in the record and that he has established his eligibility.

For the reasons discussed below, we conclude that the Petitioner has not established his eligibility for a national interest waiver. In addition, we conclude that the Petitioner is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act because he willfully misrepresented material facts by knowingly submitting false documents.

A. Inadmissibility Under Section 212(a)(6)(C)(i) of the Act

While the appeal was pending, we issued the Petitioner a notice of intent to dismiss (NOID), to give him an opportunity to respond to derogatory and adverse information impacting his petition, as required by 8 C.F.R. § 103.2(b)(16)(i). Our NOID explained that USCIS' fraud unit investigated evidence, specifically four letters of reference.[3] Upon investigation, three of the four letter writers

[2] The Petitioner earned a Ph.D. degree in architectural engineering (2013) from the [redacted]

[3] For purposes of brevity, and because the Petitioner does not contest the underlying factual allegation that the letters were falsified, we will not restate the full content or other details of these letters in this decision. However, our August 12, 2025 NOID provides the full content and all information relevant to the fraud investigation and its findings.

confirmed that they did not draft, write, or sign the letters of reference submitted by the Petitioner in support of his national interest waiver. Two of the individuals specifically stated that the information in their purported letters was factually inaccurate. And, although the fourth writer did not reply to our fraud unit's inquiry, our NOID noted multiple irregularities in the letter which led USCIS to believe the fourth writer did not draft, write, or sign his letter either. Our NOID advised the Petitioner that if he did not overcome the adverse findings, we would not only deny his national interest waiver petition but also include a finding of fraud or willful misrepresentation of a material fact, which would render him subject to the ground of inadmissibility found at section 212(a)(6)(C)(i) of the Act.

The Petitioner filed a response to our NOID in which he acknowledges the submission of "certain recommendation letters . . . disavowed by the named authors" and takes "full responsibility for the inclusion of these documents and sincerely apologize[s] for the resulting complications and the burden placed on USCIS resources." The Petitioner's NOID response further explains that his petition was prepared with the assistance of a "third-party consulting agent" and that he authorized the agent to draft the letters and to manage the logistics of obtaining "final, authorized versions." The Petitioner further admits that he overly relied on the "consultant's expertise" but contends his "negligence" and lack of "oversight" do not rise to the level of "intent" to support a finding of fraud or willful misrepresentation under section 212(a)(6)(C) of the Act.

For the following reasons, we conclude that the Petitioner knew of or authorized the submission of falsified letters with false information with his petition, and therefore willfully misrepresented facts. *See Matter of A.J. Valdez and Z. Valdez*, 27 I&N Dec. 496, 498 (BIA 2018). Furthermore, because the misrepresented facts are material to the adjudication of this petition, we conclude that the Petitioner, by willfully misrepresenting material facts, sought to procure an immigration benefit and is therefore inadmissible to the United States under section 212(a)(6)(C)(i) of the Act.

To establish willful misrepresentation of a material fact, an officer must find: 1) the alien procured or sought to procure an immigration benefit through 2) the presentation of a false oral or written statement to an official of the United States government 3) that was willfully made and 4) material to the alien's eligibility for the requested immigration benefit. *See* section 212(a)(6)(C)(i) of the Act, *see also Matter of Texperts, Inc.*, 29 I&N Dec. 491, 496 (AAO 2026) (collecting cases).

A misrepresentation may be found to be willful if it is "deliberately made with knowledge of [its] falsity." *Matter of Mensah*, 28 I&N Dec. 288, 293 (BIA 2021) (citing cases). By itself, a signature on an official immigration form establishes a strong, rebuttable presumption that the signor knows of and has assented to the false contents of a benefit request. *Matter of A.J. Valdez and Z. Valdez*, 27 I&N Dec. at 498-99. Further, information is "material" when it has a "natural tendency to affect the official decision" of an adjudicator or "tends to shut off a line of inquiry . . . that would predictably have disclosed other [relevant] facts." *Matter of Mensah*, 28 I&N Dec. at 293-94 (quoting *Kungys v. United States*, 485 U.S. 759, 771 (1988) and *Matter of D-R-*, 27 I&N Dec. 105, 113 (BIA 2017) (cleaned up)).

A finding of fraud requires all of the elements of a finding of material misrepresentation, and the establishment of additional elements. *See Matter of Texperts, Inc.*, 29 I&N Dec. at 496; *see also* 8 *USCIS Policy Manual* J.3(G), https://www.uscis.gov/policy-manual.

Because, as the Petitioner concedes, the letters falsely purport to be signed by individuals who did not draft, write, or sign the letters, they constitute false written statements and are therefore a misrepresentation. *See generally* 8 *USCIS Policy Manual*, supra at J.3(C)(1) (stating that an alien may make a misrepresentation by submitting evidence containing false information). Additionally, by submitting the falsified letters with his immigrant petition, the Petitioner sought to procure an immigration benefit through the presentation of these false written statements to an official of the U.S. government. *See* section 212(a)(6)(C)(i) of the Act.

We further conclude that this misrepresentation was material. In submitting these letters, the Petitioner claimed that they demonstrate that he is well-positioned to advance the proposed endeavor and that a waiver of the job offer requirement would be beneficial to the United States. These are required elements in prongs two and three of the *Dhanasar* analytical framework; the Petitioner therefore presented them as being material and relevant to his eligibility. The falsified reference letters also purport to speak to his qualifications, the "substantial merit" of his research area, and that his work is in the "national interest." *See Matter of Dhanasar* 26 I&N Dec. at 889-890. Moreover, SCOPS concluded in its decision that the Petitioner established the substantial merit of the proposed endeavor based upon these reference letters. The Petitioner therefore presented false statements to a U.S. government official that were material to his eligibility for the requested immigration benefit; the submission of the falsified letters therefore constitutes a material misrepresentation.

The final element in determining whether the Petitioner is inadmissible under section 212(a)(6)(C)(i) of the Act is willfulness. We conclude that the balance of the evidence demonstrates that the Petitioner did make this material misrepresentation willfully. As noted above, the Petitioner claimed in his NOID response that a "third party consulting agent" was responsible for submitting the false documents and that he lacked "intent." While we have considered the Petitioner's assertion that his conduct was negligent but not willful, as explained further below, the weight of the evidence supports the conclusion that the Petitioner willfully misrepresented material facts by submitting falsified evidence.

When the Petitioner signed his Form I-140, Immigrant Petition for Alien Workers, he certified, under penalty of perjury, the following:

> "I certify, under penalty of perjury, that I have reviewed this petition, I understand all of the information contained in, and submitted with, my petition, and all of this information is complete, true and correct."

Additionally, the USCIS "Instructions for Petition for Alien Worker" include at page 9, this warning:

> "If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-140, we will deny your petition and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution."

As such, when the Petitioner signed his Form I-140, his signature created a strong presumption that he had knowledge of the petition's contents and assented to them. *See Matter of A.J. Valdez and Z. Valdez*, 27 I&N Dec. at 499-500. This presumption can be rebutted by establishing fraud, deceit, or

other wrongful acts by another person, but a petitioner may not circumvent this presumption by deliberately avoiding knowledge of a document's contents. *Id.*

Here, the Petitioner has not credibly established fraud, deceit, or other wrongful acts by another person. The Petitioner does not identify the "third party consulting agent" that he claims is responsible for the falsified letters, and the Form I-140 Petition was submitted without an attorney or other legal representative of record. The Petitioner is highly educated, English-speaking, and obtained a doctorate degree at a U.S. university. He signed and certified, under penalty of perjury, that he had knowledge of the petition's contents. He also received warnings about the consequences of submitting false information. Further, he did not provide evidence to support his assertion that he lacked the requisite knowledge required to sustain a section 212(a)(6)(C)(i) finding when he submitted multiple falsified letters.

Given the seriousness of the conduct at issue in this petition, as explained in our NOID, the Petitioner's response lacks the necessary details to overcome the findings of our investigation. We find that the weight of the evidence shows that the Petitioner, in submitting falsified letters of reference, sought to procure a national interest waiver through the presentation of false written statements to an official of the U.S. government that were willfully made and material to his eligibility for the requested benefit. *See Matter of Texperts, Inc.*, 29 I&N Dec. at 496. Thus, we conclude that the Petitioner, by willfully misrepresenting a material fact, sought to procure a benefit under the Act. Section 212(a)(6)(C)(i) of the Act.

B. Eligibility for a National Interest Waiver

SCOPS determined that the Petitioner demonstrated the substantial merit of the proposed endeavor but not its national importance. However, as discussed in detail above, we conclude that the reference letters upon which SCOPS, at least in part, based this determination contain material misrepresentations. Therefore, the Petitioner has not satisfied his burden of demonstrating his endeavor's substantial merit and we will withdraw SCOPS' determination on that issue.

Additionally, we affirm SCOPS' determination that the Petitioner is not eligible under either prongs two or three of the *Dhanasar* analytical framework. As stated above, the Petitioner claimed that these letters demonstrate that he is well-positioned to advance the endeavor and that a waiver of the job offer requirement would be beneficial to the United States. Because the Petitioner willfully made material misrepresentations by submitting falsified evidence in support of his eligibility for these prongs, when considering the evidence in totality we conclude that he has not met his burden of proof to demonstrate his eligibility under either prong two or three. As such, the Petitioner has not established eligibility for a national interest waiver under any of the three prongs of the *Dhanasar* analytical framework.

III. CONCLUSION

The Petitioner submitted evidence in support of his national interest waiver that contained multiple material misrepresentations and, as a result, he has not established eligibility and is ineligible for the benefit sought. Furthermore, the Petitioner is inadmissible under section 212(a)(6)(C)(i) of the Act because the weight of the evidence establishes that he willfully misrepresented material facts by knowingly submitting falsified evidence.

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.