U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39658075

Date: NOV. 10, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a quantitative 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, concluding the Petitioner did not establish that she is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

Once a petitioner demonstrates eligibility for the underlying classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. While neither the statute nor the pertinent regulations define the term "national interest," *Matter of Dhanasar,* 26 I&N Dec. 884, 889 (AAO 2016), provides the framework

for adjudicating national interest waiver petitions. *Dhanasar* states 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
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner's initial petition stated that her proposed endeavor was to continue her research on developing finely tuned statistical methodologies optimized for big data order to enhance estimation and prediction capabilities across various fields, including health and social sciences. The Petitioner submitted an updated statement with her second response to a request for evidence (RFE), stating that her proposed endeavor is to continue her research on developing finely tuned statistical methodologies, advancing machine learning and artificial intelligence (AI) driven methods optimized for big data in order to enhance estimation and prediction capabilities across various fields, and address practical challenges such as in financial and public health sectors.

SCOPS found that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree.[2] We agree. The issue 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. SCOPS determined that while the Petitioner demonstrated the proposed endeavor has substantial merit, she did not establish that the proposed endeavor is of national importance, as required by the first prong of the *Dhanasar* analytical framework. Upon de novo review, we agree with the SCOPS' determination that the Petitioner did not establish the national importance of her proposed endeavor.[3]

On appeal, the Petitioner asserts that SCOPS erred by confining the benefits of her proposed endeavor to her employer. She claims that her statements and supporting evidence show her research is oriented toward solving systemic challenges in healthcare data infrastructure and challenges which federal agencies have identified, beyond benefiting her employer. She maintains that her research has been nationally disseminated and that she intends to continue disseminating her research. In addition, citing *Buletini v. INS*, 860 F. Supp. 1222 (E.D. Mich. 1994), the Petitioner claims SCOPS abused its discretion by not appropriately evaluating the evidence, in particular the evidence she submitted with her reply to the January 2025 second request for evidence. The Petitioner asserts the proposed endeavor satisfies the national importance prong under *Dhanasar* because: (1) it is aligned with multiple priorities identified by the U.S. government, including leadership in data science, responsible AI development, and economic modernization through data-driven systems; (2) the proposed endeavor

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

[2] To qualify for the underlying EB-2 classification as an advanced degree professional, the Petitioner submitted her diploma and academic transcript indicating she earned a doctorate in statistics and data science from the [redacted] in May 2024.

[3] While we may not discuss every document submitted, we have reviewed and considered each one.

has sector-specific impact in public health and healthcare analytics; and, (3) independent expert testimonials confirm the national importance of the proposed endeavor.

To determine whether a petitioner has met their burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.; *see also Matter of E-M-*, 20 I&N Dec. 77, 79- 80 (Comm'r 1989). Here, we disagree with the Petitioner's assessment of SCOPS' decision. SCOPS acknowledged reviewing all documents submitted, including the initial petition and documents included with the Petitioner's two request for evidence replies, such as her new employment offer letter and agreement regarding conditions of employment ("agreement") with C-S-S[4] (an alternative global investment firm), personal statements, articles, government information, citation records, and recommendation letters to evaluate the substantial merit and national importance of the Petitioner's proposed endeavor. Based on the record, SCOPS' decision is a reasoned interpretation and consideration of the evidence. The proposed endeavor, as described, and the evidence in the record do not support the Petitioner's assertions that the potential impact of her endeavor extends beyond her employer to have a broader impact to her field or implications rising to a level of national importance.

The first prong of the *Dhanasar* analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner 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. SCOPS found that the proposed endeavor had substantial merit and we agree. While continuing her work as a quantitative researcher demonstrates the substantial merit of the proposed endeavor, it does not support or demonstrate its prospective potential impact nationally, or even globally, or through broader implications rising to a level of national importance. In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.*

The Petitioner has not demonstrated that her proposed endeavor is of national importance. For her intended research work, the Petitioner generally explains her proposed research will continue to be circulated in the field through peer-reviewed publications in journals, conference proceedings, and presentations. The first prong relates to substantial merit and national importance of the "specific endeavor." *Matter of Dhanasar,* 26 I&N Dec. at 889. When analyzing the national importance of a petitioner's proposed endeavor under *Dhanasar's* framework, we focus on the prospective impact of the proposed endeavor, instead of limiting our analysis to a petitioner's employment at the time of filing. An endeavor is more specific than a general occupation and should include details of the types of work a petitioner intends to undertake and describe specific projects and goals. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), https: //www.uscis.gov/policy-manual.

SCOPS found that there was no evidence that the proposed endeavor has national importance beyond her current or future employers and their clients. Upon de novo review of the record, we agree. For example, although the Petitioner claims on appeal that her proposed endeavor will be "[f]ar from

[4] We use initials to protect the privacy of individuals and entities referenced in this decision.

confined to the interests of a single employer," the record contains an employment agreement with confidentiality and non-competition terms that belie that claim.

Under the employment agreement in the record, the Petitioner agrees to keep intellectual property confidential and the exclusive property of her employer, including, but not limited to, algorithms, research, analysis, software, source code, databases, and know-how. Furthermore, the Petitioner agreed to non-competition, non-solicitation, non-disparagement, and other restrictive covenants. Under the agreement, the Petitioner shall not, at any time during or after her employment at the company, author or participate in the writing or attempt to publish any article, book, or any other media presentation which concerns or reflects confidential information, including intellectual property, or any part of her experiences with the company unless authorized in a writing signed by the company's chief executive officer or general counsel. In light of these restrictive covenants, the Petitioner has not met her burden to show that research she undertakes during employment at C-S-S- will be disseminated beyond her employment and rise to the level of national importance, as she asserts in her brief.[5]

As a comparison, the petitioner in *Dhanasar* demonstrated that he conducted research and development in the field of air and space propulsion, more specifically, hypersonic propulsion systems involving speeds above Mach 5, and he had developed a novel method for accurately calculating hypersonic airflow. *Matter of Dhanasar*, 26 I&N Dec. at 891-92. In addition, he submitted evidence reflecting that he would continue his research into designing and developing propulsion systems in nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles and substantial supporting evidence of how his continued research would assist the United States in maintaining its advantage over other nations in hypersonic flight, including documentation reflecting his receipt of funding from a government entity for his research. *Id.*

The Petitioner further asserts her proposed endeavor has national importance because it involves a science, technology, engineering, and mathematics (STEM) field and the critical and emerging technologies. USCIS recognizes the importance of progress in STEM fields and the essential role that individuals with advanced STEM degrees have in fostering such progress. 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual/. However, "in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." *Id.* We acknowledge that the Petitioner's proposed endeavor involves STEM fields. However, simply working in STEM fields and with critical and emerging technologies alone is not sufficient to establish the national importance of a specific proposed endeavor.

The Petitioner also claims her proposed endeavor will have substantial positive economic effects, as evidenced by her support letters. The Petitioner submitted support letters from other researchers who praise her past work and skills but do not address her proposed endeavor. E-J-T-T- mentored the Petitioner as a dissertation advisor at the [redacted] and praises her past work. A-K-K- states that he collaborated with the Petitioner on three past projects and asserts that the Petitioner's investigations into covariate shift, conformal prediction, and missing data have led to

[5] Further, regarding prong two, there are questions regarding how well positioned the Petitioner would be to execute the endeavor in light of the non-competition clauses in her employment agreement. This is a significant hurdle to approval. However, because the petition is not otherwise approvable, we will not address this issue further. That said, the Petitioner should be prepared to address this issue in any future NIW filings.

noticeable improvements in the capabilities of predictive models in critical real-world applications, which are of immense utility to the United States. L-L-'s letter praises the Petitioner's past research articles, noting they have never collaborated. Her colleagues in the field focus on the Petitioner's previous quantitative research work and accomplishments with general statements that the Petitioner's contributions in her field would be of value to the United States. While each letter attests to the Petitioner's skills and experience, E-J-T-T-, A-K-K-, and L-L- do not identify or address her specific proposed endeavor. We may, in our discretion, use advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *See Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988).

The Petitioner submitted evidence that, at the time of filing her petition, she had four peer-reviewed journal articles (two of them first-authored and one co-first-authored), one conference article, and two preprints (one of them first-authored) published in top journals and conferences. The Petitioner's publication and citation record shows her past work has been recognized and relied upon by other researchers in her field. It does not, however, establish the potential prospective impact of her specific proposed endeavor. *See Matter of Dhanasar*, 26 I&N Dec. at 889 (explaining we consider the proposed endeavor's potential prospective impact when assessing national importance).

In sum, the relevant evidence does not establish that the Petitioner's proposed endeavor would have substantial positive economic effects, national or even global implications within her field, or other broader implications indicating national importance. Consequently, the Petitioner does not meet the first *Dhanasar* prong.

Because the documentation in the record does not sufficiently establish the Petitioner qualifies for the first prong of the *Dhanasar* precedent decision, she has not demonstrated eligibility for a national interest waiver. This identified basis for dismissal is dispositive of the Petitioner's appeal, and therefore we decline to reach and hereby reserve the Petitioner's appellate arguments and eligibility under the second and third prongs of *Dhanasar*. *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 Petitioner has not established eligibility under the requisite first prong of the *Dhanasar* analytical framework, she is not eligible for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

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.