U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39491083

Date: OCT. 2, 2025

Motion on Administrative Appeals Decision

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

The Petitioner, a senior product manager, 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 the Petitioner did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We later summarily dismissed the Petitioner's later appeal. The matter is now before us on a motion to reopen and a motion to reconsider.

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). Upon review, we will dismiss the motions.

I. MOTION TO REOPEN

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner asserts that our prior summary dismissal of his appeal was erroneous. In support of the motion, the Petitioner submits evidence indicating that we received a brief and additional evidence from him prior to the date of our summary dismissal. Upon review, we agree that the brief and additional evidence was timely received. We will therefore withdraw our previous summary dismissal decision and consider the merits of this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

A. 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 EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. 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 that U.S. Citizenship and Immigration Services (USCIS) may, as a 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.

B. Substantial Merit and National Importance

The sole issue we will address is whether the Petitioner established eligibility for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* Upon review, we disagree with SCOPS' conclusion that the Petitioner did not establish his proposed endeavor has substantial merit and we withdraw this determination. The Petitioner's proposed endeavor falls within the range of areas of substantial merit, namely science and technology. *Id.* However, while the Petitioner has established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner states that he would continue to serve as a senior product manager for his employer, P-S-, working on the company's digital experience (DX) business unit team focused on "helping clients and customers get the most out of their storage though intelligent AIOps and budget-friendly subscription plans." The Petitioner indicates that his employer is an essential critical infrastructure organization maintaining big data applications and storage systems so vital that their incapacity would have a debilitating impact on national security, economic security, and public health and safety. The Petitioner explains that his employer's data storage infrastructure and protection solutions protect critical U.S. government agencies from ransomware attack, including the U.S. Department of Defense (DoD), U.S. Center for Disease Control (CDC), U.S. Food and Drug Administration (FDA), and the National Aeronautics and Space Administration (NASA).

[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 to be discretionary in nature).

The Petitioner asserts he will continue to work as the lead project manager on major ongoing projects for his employer including an "Anomaly Detection Notifications project" where he is tasked with "developing programs to proactively notify customers when data anomalies occur in any [P-S-] product to improve cyber resilience and security posture." The Petitioner further indicates he leads the "Environmental, Social, and Governance Product Lifecyle," noting that the goal of this project is to "provide customers with a unified view of the cradle-to-grave CO2 emissions for their date storage appliances" allowing them to "make informed decisions about sustainability and carbon footprint." The Petitioner elaborated that his "expertise in technology and product management" is of national importance based on its prospective and technological impact for "U.S. businesses and U.S. federal and state government agencies," including DoD, NASA, CDC, and various other state and municipal government entities. He asserts that his continued management of his employer's products would allow businesses and organizations in various U.S. industries to increase their opportunities to safely store and protect data against ransomware attacks and information security breaches. The Petitioner emphasized that his field of work was consistent with executive branch initiatives to promote cybersecurity.

SCOPS later issued a request for evidence (RFE) stating that the Petitioner's proposed endeavor was vague and that he over emphasized the general importance of his occupation rather than the actual prospective national impact of his specific endeavor. As such, SCOPS requested additional evidence, including a more detailed description of the proposed endeavor and documentary evidence to demonstrate its potential prospective national impact, such as its national implications in the field, significant potential to employ U.S. workers or have other substantial economic effects, broadly enhance societal welfare, and/or impact a matter a government entity described as having national importance.

In response, the Petitioner stated that his proposed endeavor was "to engage in the product development of software solutions to advance the structure, capabilities, reliability and security of data storage and data protection technologies." The Petitioner emphasized that his employer is "one of the national and international leaders" in data storage and data protection field. The Petitioner asserted that his proposed endeavor was aimed at advancing a Science, Technology, Engineering, and Mathematics (STEM) matter identified by the White House as important to U.S. competitiveness since it is aimed at "building a strong, resilient digital infrastructure and digital ecosystem that stores and protects data from malicious cyberattacks." The Petitioner stated that his proposed endeavor lies within one of 16 infrastructure sectors identified as critical by the United States Government and advances several executive initiatives in cyber resiliency and cybersecurity. The Petitioner contended:

> ...having talented product manager[s] such as [the Petitioner] who are defining and delivering data storage and data protection technologies for businesses and organizations to ensure the confidentiality, integrity, and availability of the digital infrastructure and systems in storing and protecting their underlying data, is in the interests of the United States.

In denying the petition and concluding the Petitioner did not demonstrate the national importance of his proposed endeavor, SCOPS determined that he overemphasized his knowledge and experience rather than the potential prospective national impact of his proposed endeavor. SCOPS indicated that the Petitioner did not sufficiently explain how his work would have an impact on his field at large.

SCOPS also determined he did not establish that his proposed endeavor would lead to substantial positive economic effects and have a broad impact raising to the level of substantial economic benefits contemplated in *Dhanasar*.

On motion, the Petitioner points to the USCIS Policy Manual and asserts that it provides specific adjudicative guidance when evaluating the national importance of proposed endeavors advanced by petitioners with advanced degrees in STEM fields. The Petitioner contends that SCOPS erred in not following this guidance and did not sufficiently consider the evidence he submitted in response to the RFE. The Petitioner states that his work goes beyond his employment since his employer is a "global leader" in the development of digital transformation technologies impacting over 12,500 clients, 60% of the Fortune 500 companies, and U.S. federal agencies who utilize its products to protect their data. The Petitioner asserts that he submitted ample evidence to demonstrate that the U.S. government has a vital interest in data protection as reflected in government initiatives promulgated by the U.S. Cybersecurity and Infrastructure Security Agency (CISA), National Science and Technology Council (NSTC), the White House, and the U.S. Department of Commerce, among others.

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890.

As discussed by SCOPS, the Petitioner did not sufficiently clarify his specific proposed endeavor but only emphasizes the importance of the cybersecurity and data protection field. Again, our focus is on the specific endeavor the Petitioner proposes to undertake, not the importance of his field. The Petitioner states he would continue to be employed by a technology company that is a leader in data protection and cyber security and that he would work on major ongoing projects, including an anomaly detection notification project and the "Environmental, Social, and Governance Product Lifecyle." However, the Petitioner did not provide a detailed explanation of the specific nature of these projects and how they would have potential prospective national impact. For instance, the Petitioner suggests that the latter project would "provide customers with a unified view of the cradle-to-grave CO2 emissions for their data storage appliances" allowing them to "make informed decisions about sustainability and carbon footprint." The Petitioner did not sufficiently establish how this one project would have a potential prospective national impact on carbon emissions, particularly when he indicates that his employer services over 12,500 clients worldwide.

Likewise, the Petitioner conflates his work with that of the potential national impact of his employer. The Petitioner discusses his employer's work with "U.S. businesses and U.S. federal and state government agencies," including DoD, NASA, CDC, among others, and over 500 companies across all industries. However, the Petitioner provides no explanation of businesses or government agencies he would work with and how this would result in a national-level impact. The Petitioner suggests that the work performed by his employer is critical since the potential incapacity of these client systems could impact national security and public health and safety, yet we are given no indication with which

clients he would work and how the failure of his client's systems could have a potential prospective national impact. Again, it is the Petitioner's specifically proposed endeavor that we must analyze, not the potential national impact of his employer and all its clients and employees.

The Petitioner appears to rely mostly on his skills and experience to demonstrate national importance stating that having "talented product manager[s]" like him working in the field of data storage and data protection technologies is in the interest of the United States. However, while we recognize that the Petitioner gained knowledge and experience while working for his employer in what appears to be an important field, his expertise is a consideration under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* The issue here is whether the Petitioner has demonstrated the national importance of his specific proposed endeavor.

The Petitioner does not sufficiently detail and document his specific endeavor within the field of data storage and data protection and how his proposed employment would be materially different from those similarly placed in the field, including his many colleagues working with his employer. For instance, it is not clear how the Petitioner's work would have potential prospective national impact when he is likely working with a few clients, while his employer has over 12,500. The Petitioner indicated in submitted documentation that his employer employed over 5,000 individuals at the end of 2023; therefore, it is reasonable to conclude that the company employs many other similarly placed product managers. In fact, the submitted ETA-9089, Application for Permanent Employment Certification, reflected that the Petitioner began employment with the employer in February 2024, just over one year prior to the date the petition was filed. The Petitioner did not sufficiently clarify how he gained a level of expertise in P-S- products and technology in such a relatively short period of time, such that his work would effectuate a potential prospective national impact. The Petitioner must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

On appeal, the Petitioner points to the USCIS Policy Manual and contends that specific evidentiary considerations related to those with advanced degrees in STEM are instructive and demonstrate the national importance of his proposed endeavor. The Petitioner asserts he submitted "ample evidence" that cyber resiliency and cybersecurity are "a vital interest for US citizens, businesses, and government agencies to protect their data" as reflected in policies and strategy documents promulgated by CISA, the White House, the U.S. Department of Commerce, among other executive branch entities. We acknowledge that SCOPS should have analyzed whether the Petitioner's proposed endeavor in a STEM area was nationally important based on its importance to U.S. competitiveness or security. For example, we can conclude that a STEM endeavor has national importance when the evidence sufficiently demonstrates that the proposed endeavor would help the United States remain ahead of strategic competitors or current and potential adversaries, or when it relates to a field where appropriate activity and investment, both early and later in the development cycle, would contribute to the United States achieving or maintaining technology leadership or peer status among allies and partners. *See generally* 6 *USCIS Policy Manual* D.4, https://www.uscis.gov/policy-manual. However, with respect to national importance, the USCIS Policy Manual indicates that as in all cases, the evidence must demonstrate that a STEM endeavor has national importance. *Id.*

As we have discussed, the Petitioner does not sufficiently articulate the Petitioner's specific proposed endeavor, the technology he would work on, and what government agencies he would work with, but

mainly refers to the work generally performed by his employer as a whole. The Petitioner provided a brief discussion of certain projects on which he would work, such as anomaly detection notification and CO2 emissions tracking projects, but he does not describe or document how his work on these projects would be nationally important to U.S competitiveness or security, help the U.S. remain ahead of strategic competitors or current and potential adversaries, or relate to a field, where appropriate activity and investment would contribute to the United States achieving or maintaining technology leadership or peer status among allies and partners. Without a clear indication as to the specific nature of the Petitioner's proposed endeavor, the technology involved, and to whom he provides these services, it is difficult to determine whether his specific work would likely be nationally important to U.S. competitiveness or security or the U.S. achieving or maintaining technology leadership or peer status among allies and partners. Merely showing a general relation between a Petitioner's work and a STEM field identified as important to the U.S. government is not alone sufficient, he must sufficiently articulate and document his specific proposed endeavor and demonstrate how it has potential prospective national importance in this context. The fact that the Petitioner's employment may be in general alignment with government initiatives does not demonstrate that his specific proposed endeavor would have a potential prospective national impact on them. Generalized conclusory statements that do not identify a specific impact to a field have little probative value. *See e.g., 1756, Inc. v. U.S. Att'y Gen.*, 745 F. *See also*, Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

Lastly, the record does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Dhansar* at 890. The Petitioner also asserts on appeal that the submitted evidence demonstrates that his endeavor "impacts the US economy." The Petitioner states that the data storage market "has grown dramatically" and had an estimated value of $58.4 billion in 2021. He also emphasizes that the software engineering market was valued at approximately $142 billion in 2023. However, once again, it is not the size or importance of the industry that establishes national importance, but the potential prospective (in this case economic) impact of the Petitioner's specifically proposed endeavor. As noted, the Petitioner did not sufficiently articulate the Petitioner's proposed endeavor but relied on the activities of his employer in its entirety. The Petitioner also did not submit specific and targeted economic impacts resulting from his work but refers to large revenues generated by the data storage and software engineering industries. It appears unlikely that the Petitioner's work, amongst approximately 12,500 within his company alone, would have a substantial positive economic effect on either of these massive industries, presumably including numerous competing companies who likely also have numerous employees. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact the economy, he has not provided sufficient explanation of the prospective national impact directly attributable to his proposed work or established how his endeavor would impact an economically depressed area. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For all the reasons discussed, the evidence does not establish the national importance of the Petitioner's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.[2]

[2] As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's motion, we decline to reach and hereby reserve the Petitioner's eligibility

We may only grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. See Matter of Coelho, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome). Therefore, since the Petitioner has not established his eligibility for the benefit sought, the motion to reopen must be dismissed.

II. MOTION TO REOPEN

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. As discussed at length in the prior section, although the Petitioner demonstrated that our prior summary dismissal was in error, he has not demonstrated eligibility for the requested benefit. Therefore, the motion to reconsider must also be dismissed.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider 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.

---

and appellate arguments under *Dhanasar*'s second prong. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); *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).