U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39352298

Date: OCT. 02, 2025

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 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 Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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.

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 their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree. The sole issue to be determined 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, the Petitioner was working for [redacted] LLC as a Software Engineer III.[2] He indicated that his duties in this capacity include interactive modeling of data governance, building tools to support artificial intelligence (AI)-powered experiences, enhancing self-service analyst capabilities and user experiences, supporting open-source tools relied upon by customers to build custom embedded applications for data analysis, and building connectors for other data products.

The Petitioner's initial declaration stated that his proposed endeavor involves working in "the field of Advanced Computing and Data Security Technologies by employing data processing and analysis techniques . . . . A primary focus of my work will be the creation of advanced tools for interactive data governance modeling, which will significantly improve data quality, security, and compliance across organizations." He further indicated that another aspect of his "endeavor is to develop innovative developer tools designed to facilitate the efficient creation of data analysis, data processing and AI-powered experiences." In addition, the Petitioner asserted that he plans "to enhance self-service analytics capabilities for non-technical users, making data analytics more accessible and empowering organizations to foster a data-driven culture." He also noted that "[a] vital component of my work will be to continue building and supporting open-source tools that allow businesses to create custom-embedded applications for seamless data analysis."

In response to SCOPS request for evidence (RFE), the Petitioner provided a supplemental declaration indicating that his proposed endeavor is aimed at "employing data processing and analysis techniques. I plan to undertake the [redacted] project plan . . . by creating a powerful, open-source library of interactive web components for data visualization and analysis, fulfilling the goals of developing innovative developer tools and enhancing self-service analytics." He explained that the [redacted] "project's core features, including its framework agnostic design, conversational analytics engine powered by GenAI, and focus on ease of use, will empower both technical and non-technical users to build data-driven applications, advancing my aim to improve data governance modeling and facilitate AI-powered experiences." The Petitioner also outlined the three phases of his [redacted] project: Phase 1 ("Research, Design, and Core Components"), Phase 2 ("Enhanced Interactions, Expanded Components, and Conversational Engine Development)," and Phase 3 ("GenAI Integration, Community Growth, and

[2] The Petitioner submitted a July 2024 employment verification letter from [redacted] LLC stating that he "works at 100% of their full-time working hours." As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for him to have a job offer from a specific U.S. employer. However, we will consider information about his position to illustrate the capacity in which he intends to work in order to determine whether the proposed endeavor meets the requirements of the *Dhanasar* framework.

Platform Solidification"). In addition, he presented the [redacted] (an AI-powered software developer collaborative platform) repository for his [redacted] project.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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.* SCOPS determined the Petitioner's proposed endeavor has substantial merit. We agree.

SCOPS concluded, however, that the Petitioner did not establish the national importance of his proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. This consideration may include whether the 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 has other broader implications indicating national importance. *Id.* at 889-90. SCOPS determined the Petitioner did not establish the potential prospective impact of his proposed work.[3]

On appeal, the Petitioner argues that SCOPS' decision failed to properly apply the evidentiary standard and analytical framework set forth in *Dhanasar* and overlooked documentation demonstrating that his proposed endeavor meets all three prongs of the framework. He also contends that SCOPS mischaracterized his "proposed endeavor, which has no relation to [redacted]" The Petitioner further states:

> [The Petitioner's] endeavor is to advance the field of advanced computing and data security technologies by employing data processing and analysis techniques. [The Petitioner] described a completely independent project, [redacted] which is a powerful, open-source library of interactive web components for data visualization and analysis.

The Petitioner's September 2024 personal declaration, however, discussed his "role as a Software Engineer at [redacted]" which involves work "in areas like data governance, security, and scalability across various industries." This initial declaration did not specifically mention or elaborate on his "[redacted]" project in the multiple sections (numbered 13 through 32) describing his proposed endeavor.[4]

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[3] SCOPS' decision indicated that while the Petitioner's services may benefit his employer, he did not show that his proposed work stands to impact the field more broadly at a level indicative of national importance.

[4] In response to the RFE, the Petitioner provided a supplemental declaration (February 2025) outlining the phases of his [redacted] project plan. As this plan materialized after the filing of the petition, and therefore would not establish his eligibility at the time of filing, it does not assist him in establishing that he meets the requirements set forth in the *Dhanasar* framework. The petition in this matter was filed on September 30, 2024, and the Petitioner has the burden of proof to establish eligibility for the requested benefit at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971) (providing that "Congress did not intend that a petition that was properly denied because the beneficiary was not at that time qualified be subsequently approved at a future date when the beneficiary may become qualified under a new set of facts"). Further, a petitioner may not make material changes to a petition in an

In addition to his two declarations, the record includes articles on the importance of business intelligence, AI research and development, big data analytics, digital analytics to promote American security, foreign STEM (science, technology, engineering, and mathematics) talent, digital literacy, open source tools for accelerating data science progress, data literacy as a foundational skill, new technologies in the labor market, and DeepSeek. The Petitioner also submitted information about generative AI and open data, AI accountability, the Stargate AI project, the transformative impact of data visualization across various industries, generative AI driven simulation and data visualization, U.S. critical and emerging technologies, national security strategic guidance, and presidential actions to promote AI and to attract STEM talent. The Petitioner claims that these articles support the national importance of his proposed endeavor. The determination of national importance does not focus on the importance of one's field or industry in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles mention the Petitioner or his planned projects, or otherwise speak to the potential prospective impact of his specific proposed endeavor.

The Petitioner asserts that SCOPS' decision disregarded his work "in advanced computing and data security technologies, fields explicitly listed in the White House's 'Critical and Emerging Technologies List.'"[5] He also points to his master's degree and USCIS policy relating to individuals who possess an advanced STEM degree.[6] While the *USCIS Policy Manual* explains how the *Dhanasar* framework can apply to STEM graduates, the Petitioner still must meet the three prongs set forth in *Dhanasar* to establish it is in the national interest that USCIS waive the requirement of a job offer, and thus the labor certification. We agree that the Petitioner's proposed endeavor involves STEM technologies and has substantial merit in relation to U.S. technology interests, but he must also demonstrate that it has sufficiently broad potential implications to demonstrate national importance.

The Petitioner also argues that SCOPS' decision did not properly review letters of support from his colleagues. He provided letters of support from S-R-, J-F-K-, I-T-, L-T-, C-M-, J-P, and A-D- who mainly discuss the Petitioner's software engineering capabilities and experience in advanced computing and data security technologies. The Petitioner's skills, knowledge, and prior work in his field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong.

Regarding the Petitioner's proposed endeavor's prospective impact, S-R- asserts that the Petitioner's "work in enhancing advanced computing and data security technologies is critical to protecting sensitive information and ensuring that U.S. businesses and institutions remain secure in an increasingly digital world." Likewise, I-T- contends that the Petitioner's "proposed endeavor to develop advanced data processing and analytics tools holds the potential to drive innovation and

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effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998).

[5] With respect to *Dhanasar's* first prong, as in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance. *See generally* 6 *USCIS Policy Manual*, F.5(D)(4), https://www.uscis.gov/policy-manual.

[6] The Petitioner received a Master of Science degree in Computing (2014) from [redacted]. A Petitioner's education, however, is a factor considered under *Dhanasar's* second prong. *Id.* at 890.

productivity" and that such work "allows businesses to react to changing market conditions and make data-driven decisions more efficiently." The determination of national importance, however, "focuses on the specific endeavor that the foreign national proposes to undertake" rather than the importance of one's field in general. *Id.* at 889.

L-T- states that "[b]y contributing to the development of open-source tools, [the Petitioner] will not only foster innovation but also promote collaboration and the sharing of knowledge across industries." In addition, C-M- claims that the Petitioner's "proposed [redacted] project's GenAI-powered conversational analytics engine will address an urgent need for intuitive data visualization tools, lowering barriers to AI adoption and fostering a data-literate workforce." Similarly, J-P- asserts that the Petitioner's "proposed endeavor to undertake the [redacted] project represents a groundbreaking advancement in data visualization" and stands to "democratize data visualization and empower a wider range of professionals to make data-driven decisions." Moreover, A-D- indicates that the Petitioner's undertaking supports "data literacy initiatives, technological innovation, and advancements in human-computer interaction – all of which are vital for maintaining the United States' leadership in the global technology landscape."

While the Petitioner's proposed endeavor offers an open-source library of interactive web components for data visualization and analysis, he has not provided evidence demonstrating that his proposed work would affect his industry or field at a level indicative of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. The letters from S-R-, J-F-K-, I-T-, L-T-, C-M-, J-P, and A-D- do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work offers broader implications in his field or industry or substantial positive economic effects for our nation that rise to the level of national importance.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. The Petitioner's statements reflect his intention to provide an open-source library for data analysis as well as other data governance tools, but he has not offered sufficient information and evidence to demonstrate that the prospective impact of his 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 having national importance because they would not impact his field more broadly. *Id.* at 893. Here, we conclude the Petitioner has not shown that his specific proposed endeavor stands to sufficiently extend beyond his proposed projects and their users to impact his field, the information technology industry, or U.S. technological interests more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's projects would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

The Petitioner has not established that his 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 has other broader implications indicating national importance.

B. The Remaining *Dhanasar* Prongs

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated 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 his 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 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. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

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.