U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 3919507

Date: OCT. 7, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a network software engineer, 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 is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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;
- The individual is well-positioned to advance their proposed endeavor; and

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* 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 second prong shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether they are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.*

The third prong requires a petitioner to demonstrate 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. *Id.* at 890-91. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. *Id.* In each case, the factor(s) considered must, taken together, establish 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. *Id.* at 891.

II. ANALYSIS

SCOPS determined that the Petitioner qualifies for the EB-2 visa classification as an individual holding an advanced degree based on his doctorate degree in communications and networks from [redacted] and we agree.

SCOPS further determined that the Petitioner's proposed endeavor has substantial merit, but the Petitioner has not established that his proposed endeavor is of national importance, that he is well positioned to advance the proposed endeavor, and that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus a labor certification. The remaining 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. For the reasons discussed below, we agree with SCOPS that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework. While we may not address each piece of evidence individually, we have reviewed and considered each one.

The Petitioner proposed to work in the United States as a network software engineer. Specifically, the Petitioner stated that he intends to "develop novel network routing, capacity planning, congestion

control, and scheduling algorithms in order to enhance the efficiency and performance of Large Language Model (LLM) training across hundreds of thousands of GPUs in next-generation data center network infrastructure of the cloud service enterprises."

The Petitioner obtained a master's degree in aeronautics and astronautics in 2000 and a doctor's degree in communications and networks in 2004 from [redacted] The Petitioner worked at [redacted] as a network development engineer from May to October 2024, and his present employment at [redacted] as a network software engineer began in November 2024.

On appeal, the Petitioner contends that SCOPS' failure to consider all evidence submitted and misapplication of all three prongs of *Dhanasar* amount to abuse of its discretion. The Petitioner argues that SCOPS has misidentified his proposed endeavor, conflating his specific proposed endeavor with his proposed employment. However, the record shows that SCOPS has correctly identified the Petitioner's proposed endeavor as the Petitioner's proposed endeavor was acknowledged and directly quoted by SCOPS on page 4 of its decision.

Regarding the first prong of *Dhanasar*, the Petitioner claims that SCOPS failed to consider the totality of the evidence submitted because the decision failed to discuss his updated personal statement or a testimonial from [redacted] which were submitted in response to a request for evidence.

In his updated personal statement, the Petitioner states that Executive Order 14141 on advancing the U.S. leadership in artificial intelligence infrastructure shows the urgency and significance of building artificial intelligence infrastructure and utilizing these resources in an efficient manner and that his work enhancing artificial intelligence infrastructure's performance and efficiency advances these requirements. The Petitioner also states that his proposed endeavor "aligns with national priorities outlined in reports from the National Institute of Standards and Technology emphasizing how valid, reliable, resilient, and safe artificial intelligence infrastructure is essential for strengthening the resilience and security of U.S. infrastructure systems under this emerging technology." The record contains a PowerPoint presentation on national artificial intelligence initiatives provided by the National Artificial Intelligence Act of 2020, the Executive Order 14141, artificial intelligence risk management framework published by the National Institute of Standards and Technology (NIST), and the NIST cybersecurity framework 2.0 published by the NIST.

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work. Instead, we focus on the specific endeavor that the individual proposes to undertake. *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we indicated that we look for broader implications of the proposed endeavor and that an undertaking may have national importance, for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances. *See id.*

The presidential executive order and implementing guidelines, plan, or framework issued by federal agencies may support the importance of building artificial intelligence infrastructure for the U.S. economy and national security. However, the federal policy objectives regarding artificial intelligence infrastructure do not directly address the Petitioner's specific proposed undertaking, do not mention the Petitioner's research work, or do not indicate that the government has a particular interest in the

Petitioner's proposed activities. The record does not adequately explain how his proposed endeavor to develop novel network routing, capacity planning, congestion control, and scheduling algorithms for his employer or clients offers benefits that extend beyond his employer or clients and their information technology systems' users to impact the field of technology, the field of network systems, the field of artificial intelligence infrastructure, the U.S. economy, or the U.S. national security more broadly. *See id.* at 889.

While the Petitioner's statements reflect his intention to develop novel network routing, capacity planning, congestion control, and scheduling algorithms in order to enhance the efficiency and performance of large language models in data center network infrastructure of the cloud service enterprises, he has not provided sufficient information or evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. *See id.* 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, the record does not sufficiently establish that the Petitioner's proposed endeavor stands to sufficiently extend beyond his employer or clients and their information technology systems' users to impact the field of technology, the field of network systems, or the U.S. artificial intelligence infrastructure more broadly at a level commensurate with national importance. *See id.* at 889.

The Petitioner also relied on industry articles and reports to claim that the field of his endeavor has national importance, instead of focusing on his specific work. The Petitioner submitted industry articles and reports showing the importance of artificial intelligence infrastructure and the National Science and Technology Council's updated list of critical and emerging technologies, claiming that the Petitioner's work aligns with the important priorities of the government. While we recognize the importance of progress in science, technology, engineering, or mathematics (STEM) field and the essential role of persons with advanced STEM degree in fostering this progress, merely working in an important field is insufficient to establish the national importance of the proposed endeavor.

None of the articles and reports specifically mention the Petitioner's name or his research work and do not discuss the government's interest in promoting the use of the Petitioner's research work, such that it has "national or even global implications within a particular field." *See id.* The record lacks sufficient evidence showing that the Petitioner's proposed endeavor will help the United States to remain ahead of strategic competitors or current and potential adversaries where appropriate activity may contribute to the United States achieving or maintaining technology leadership or peer status among its allies and partners. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual.

The record includes a support letter from [redacted] the Petitioner's direct manager on the machine learning performance team at [redacted] provides the Petitioner's research duties at [redacted] explaining that the Petitioner is responsible for "developing novel modeling and optimization techniques for computation, storage, networking, and power efficiency across commercially available AI chips." [redacted] praises the Petitioner's technical expertise and potential to drive innovation in the field of artificial intelligence infrastructure. [redacted] also explains the Petitioner's contributions to [redacted] stating that the Petitioner's duties are "crucial for [redacted] competitiveness, strengthening the global enterprise alliances in AI infrastructure and driving broader public innovation in this field.

For [redacted] his search on enhancing AI infrastructure throughput and reliability underpins our most advanced AI products, which have national and global impact."

As a matter of discretion, we may use advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron International, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). Nevertheless, we are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought, and the submission of expert opinion letters is not presumptive evidence of eligibility. *See id.* Here, while we recognize the Petitioner's technical expertise in the field of network systems, research abilities in data center networks, contributions to his team and employer, and potential to generate innovations in artificial intelligence infrastructure, the letter does not include sufficient information about the Petitioner's proposed endeavor and its impact rising to the level of national importance. *See Dhanasar*, 26 I&N Dec. at 889.

Moreover, while we acknowledge that the Petitioner's research duties as a network software engineer are important in developing [redacted] artificial intelligence infrastructure and further advancing [redacted] artificial intelligence products, the Petitioner has not demonstrated that the technological advancements resulting from the company's operations would be directly attributable to the Petitioner's particular role as a network software engineer. The issue here is not the broader implications of the company's innovations in the field of artificial intelligence infrastructure or the utilization of its products by government and industry, but rather the potential prospective impact of the Petitioner's specific proposed work as a network software engineer. *See id.* As such, we find that the expert opinion letter is of little probative value as it conflates the importance of the field overall or the company's supremacy in artificial intelligence infrastructure with the national importance of the Petitioner's specific endeavor.

As for the economic value that the Petitioner asserts his proposed endeavor will offer, the Petitioner states that his proposed endeavor will contribute to boosting the U.S. economy by supporting the demand for artificial intelligence applications in a cost-efficient manner. The Petitioner further states that his "endeavor to develop novel network routing, capacity planning, congestion control, and scheduling algorithms in order to enhance the efficiency and performance of Large Language Model (LLM) training across hundreds of thousands of GUPs in next-generation data center network infrastructure of the cloud service enterprises, including technologies to enable faster processing speed, reduced latency, and improved reliability in AI Infra, are contributing to this economic growth by enhancing the very foundation upon which these economic advancements are built."

In *Dhanasar*, we stated that an endeavor that has a 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. *See Dhanasar*, 26 I&N Dec. at 890.

While we acknowledge the Petitioner's claims that his proposed endeavor will contribute to boosting the U.S. economy by supporting the demand for artificial intelligence applications in a cost-efficient manner through his technological innovations, which will provide faster processing speed, reduced latency, and improved reliability in artificial intelligence infrastructure, the record lacks sufficient evidence to substantiate the Petitioner's claims, to quantify the claimed economic benefits for the United States, or to demonstrate "substantial positive economic effects" of the Petitioner's proposed

endeavor. *See id.* For example, the Petitioner has not offered sufficient evidence that his employer or clients will employ a significant population of workers in an economically depressed area or that his endeavor would offer a particular U.S. region or its population a substantial economic benefit through employment levels or business activity. Nor has the Petitioner demonstrated that any increase in the company's revenue attributable to his research work or technological innovations stands to substantially affect economic activity regionally or nationally. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not sufficiently support that the benefits to the regional or national economy resulting from the Petitioner's proposed endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *See id.*

We recognize evidence that the endeavor has the potential to create a significant economic impact is not required as an endeavor's merit may be established without immediate or quantifiable economic impact. *Id.* at 889. For example, endeavors related to research, pure science, and the furtherance of human knowledge may qualify, whether or not the potential accomplishments in those fields are likely to translate into economic benefits for the United States. *Id.* Here, because the record lacks sufficient documentary evidence of the proposed endeavor's broader impact, we agree with SCOPS that the Petitioner proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

Because the record does not sufficiently show 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. Therefore, further analysis of his eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose, and we will reserve these issues for future consideration should the need arise.[2]

III. CONCLUSION

Although the Petitioner has shown that he is a member of the professions holding an advanced degree and that his proposed endeavor has substantial merit, he has not established by a preponderance of the evidence that his proposed endeavor is of national importance. Accordingly, we conclude that the Petitioner is ineligible for or otherwise merits a national interest waiver as a matter of discretion.

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.

[2] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise ineligible).