U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39737662

Date: OCT. 09, 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] Inc. as an Artificial Intelligence (AI)/ Machine Learning (ML) Software Engineer.[2] On his Form ETA-9089, Appendix A: Foreign Worker Information, he indicated that his "job duties" in this capacity include designing "new algorithms for on-device ML and ML error analysis to improve the accuracy, performance, and safety of models in speech recognition and voice trigger systems."

The Petitioner also provided a personal statement and a letter from counsel reiterating that his "proposed endeavor is to design new algorithms for on-device ML and ML error analysis to improve the accuracy, performance, and safety of models in speech recognition and voice trigger systems."[3] He also stated:

> As an AI/ML software engineer, my work includes the enhancement of user interactions with [redacted] within which I am currently working on two key projects. Firstly, I am developing the '[redacted]' application and its accompanying system framework. These are designed to gather usage and performance data essential for the evaluation of ML systems. My second project focuses on the creation of a distributed on-device voice trigger evaluation and defect analysis system. This initiative aims to improve the accuracy and safety of existing models through meticulous testing and refinement.

In response to SCOPS' request for evidence (RFE), the Petitioner submitted a second personal statement further explaining that his proposed endeavor is aimed at "developing algorithms and systems that reduce memory requirements and computational demands of ML models while simultaneously enhancing their security." He indicated that he plans to "design and implement algorithms that enhance the efficiency of on-device ML models used for voice trigger systems, utilizing techniques such as model quantization and hardware-specific optimizations, thus enabling the deployment of ML models in resource constrained environments." In addition, the Petitioner asserted that he intends to "spearhead the development of distributed evaluation systems that identify and mitigate defects in ML models." He further noted that

[2] The record includes an August 2024 letter from N-C-, Software Engineering Manager at [redacted] Inc., stating that the Petitioner is "working on software tools, embedded system frameworks, and ML algorithms that support data collection and analytics projects aimed at improving user interactions with [redacted] Currently, he is actively engaged in an application for [redacted] user study and its accompanying system frameworks, as well as a project focused on a distributed on-device voice trigger evaluation and analysis system." 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.

[3] The Petitioner has maintained that this is his specific proposed endeavor at all stages of these proceedings.

his "work in this domain involves studying model inversion attack methods, analyzing model activation patterns, and developing distributed evaluation frameworks to enhance model robustness against different data input patterns, consequently improving the overall security of ML models."

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.[4]

On appeal, the Petitioner argues that SCOPS' decision "mistakenly conflates [the Petitioner's] proposed endeavor and his proposed employment." According to his Form ETA-9089, Appendix A: Foreign Worker Information, however, the Petitioner's "job duties" as an AI/ML Software Engineer at [redacted] are identical to the description he provided of his proposed endeavor.

The Petitioner further argues that SCOPS' decision overlooked documentation demonstrating the national importance of his proposed endeavor. In addition to his two personal statements, the record includes articles on the importance of accuracy in ML, anomaly detection in Internet of Things (IoT)-based healthcare, and ML for enhanced security. The Petitioner also submitted information about IoT market size and growth, internet crime relating to cyber attacks and malicious cyber activity, privacy concerns in voice-enabled technology, presidential actions to promote AI, and U.S. critical and emerging technologies. 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 also argues that SCOPS' decision did not properly review letters of support from his colleagues. He provided letters of support from N-C-, J-K-, M-H-, S-P-, and A-Z- who mainly discuss his software engineering capabilities and experience in on-device ML. 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

[4] For example, SCOPS' decision indicated that the Petitioner had not offered documentary evidence demonstrating that his endeavor has "significant potential to employ U.S. workers or has other substantial positive economic effects."

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, N-C-, Software Engineering Manager in [redacted] at [redacted] asserts that he manages the Petitioner as part of his team and that their work "not only benefits billions of users globally but also has substantial national importance, as the technologies he develops are transferable to critical areas such as healthcare and cybersecurity," but the record does not include evidence to corroborate his claim. Unsupported assertions and speculation have no evidentiary value and are insufficient to establish a filing party has satisfied their burden of proof. *See Matter of Mariscal-Hernandez*, 28 I&N Dec. 666, 673 (BIA 2022).

Likewise, S-P- contends that the Petitioner's "role is critical to the completion of [redacted] ongoing projects in on-device ML model efficiency and security" and that his "work would also extend beyond [redacted] and contributes significantly to the advancement of technologies in the United States." The Petitioner, however, has not presented evidence showing that his proposed work stands to offer broader implications in the field or industry beyond his software projects for [redacted]. The issue here is not the broader implications of the company's innovations in its software tools and ML algorithms, but rather the potential prospective impact of the Petitioner's specific work as a software engineer.[5]

While the Petitioner's proposed endeavor offers algorithms for on-device ML and ML error analysis to improve the accuracy, performance, and safety of models in speech recognition and voice trigger systems, 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 N-C-, J-K-, M-H-, S-P-, and A-Z- 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 algorithms for on-device ML and ML error analysis to improve models in speech recognition and voice trigger systems for his employer, 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 company and its software engineering projects to impact his field, the information technology industry, or U.S. technological interests more broadly at a level commensurate with national importance.

[5] Benefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a petitioner's endeavor has national importance. At issue is whether a petitioner can demonstrate that their own individual endeavor stands to have broader implications, such as for a field, a region, or the public at large. *See generally* 6 *USCIS Policy Manual*, F.5(D)(3), https://www.uscis.gov/policy-manual.

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.