U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39505517

Date: OCT. 16, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a business analyst, 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 he is eligible for or otherwise merits a national interest waiver as a matter of discretion. SCOPS dismissed the Petitioner's subsequent combined motions to reopen and reconsider. 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. *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;

[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 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 currently works in the United States as a business analyst for a technology company. For his proposed endeavor, he intends to establish an artificial intelligence cybersecurity business for which he would be its chief executive officer and software developer.

In the decision denying the petition, SCOPS concluded that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree. The issue on appeal is whether the Petitioner qualifies for the national interest waiver. SCOPS concluded that the Petitioner did not establish meeting any of the three prongs of the *Dhanasar* analytical framework. Upon de novo review, we agree with SCOPS' determination that the Petitioner did not demonstrate that his proposed endeavor is of national importance under *Dhanasar's* first prong.[2]

For the first *Dhanasar* prong, SCOPS determined that while the Petitioner's proposed endeavor has substantial merit, he did not establish it is of national importance. On appeal, the Petitioner contends that SCOPS misapplied the standards set out in *Dhanasar* and ignored evidence which demonstrates his endeavor is of national importance, in particular his business plan, recommendation letters, and national initiatives. He claims the evidence demonstrates his proposed cybersecurity business has potential broader implications beyond its clients. In particular, he claims his business has the potential to address the national shortage of cybersecurity professionals; contribute to cybersecurity technology innovation; have substantial U.S. economic benefits; create jobs for U.S. workers; and align with national initiatives that address cybersecurity vulnerabilities in critical sectors essential to national security and economic resilience.

In his initial petition, the Petitioner indicated his proposed endeavor is to work as a software developer. In his request for evidence reply, he provided further evidence about his endeavor, including a business plan explaining his proposed establishment of a new cybersecurity business, [redacted] for which he would be its chief executive officer. The business would specialize in protecting the online accounts of individuals and companies from unauthorized access and use, identity theft, and cybercrime. By leveraging machine learning to analyze IP addresses, login times, and device fingerprints, the business would identify behavioral anomalies that signal account takeover attempts and implement account lockdown procedures. The plan indicates that the business is distinguishable from other cybersecurity businesses because of its ability to adapt to new cyber threats and incorporate emerging technologies; its offering proactive account hardening to advanced detection, incident response, and recovery; personalized security assessments identifying vulnerabilities and recommendations; continuous exploration of technologies and methodologies leading to cybersecurity innovation; and its scalability to client growth. The business plan describes the business' services; its targeted clients; the Petitioner's experience; a market analysis of the account takeover and cybercrime industries; proposed sources of investment; and the business' projected marketing, personnel, and financial forecasts.

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

The first 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with SCOPS that the record shows that the proposed endeavor to work as a software engineer and the chief executive officer for his new cybersecurity business has substantial merit.

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 "the specific endeavor that the foreign national proposes to undertake" and evidence documenting the "potential prospective impact" of the proposed endeavor. *Id.* Here, the Petitioner has not sufficiently detailed his specific proposed endeavor or provided evidence demonstrating its potential prospective impact is commensurate with national importance.

The Petitioner's statements and business plan provide brief descriptions of a broad spectrum of his business' intended services while generally describing his desire to safeguard the online accounts of individuals and companies from online account takeovers through the use of artificial intelligence. Using general terms, the business plan lists a range of services for individuals and for businesses, including "basic phishing protection and two-factor authentication integration;" "behavioral analytics, advanced threat detection algorithms, and incident response;" and "AI-driven predicative threat modeling, dedicated account managers, and customizable security protocols to meet complex needs of large-scale operations." The Petitioner, however, he does not sufficiently detail such cybersecurity technology solutions or how his endeavor would be different from work typically performed by cybersecurity businesses. For instance, the Petitioner has not detailed or established his plans to introduce novel technologies or cybersecurity advancements that may be disseminated to or adopted by others operating in the field or otherwise articulate how he will contribute to development of our nation's cybersecurity industry.

In contrast, 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. *Id.* 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.* Here, the record does not include the same level of detail and corroborating evidence to demonstrate the Petitioner's proposed endeavor has the claimed potential to substantially impact his field, or otherwise rises to the level of national importance as contemplated by *Dhanasar*.

Moreover, the Petitioner's statements and business plan broadly assert the business has the potential to substantially impact the U.S. economy by minimizing disruptions to critical sectors such as finance, healthcare, and energy; create jobs for U.S. workers; address the shortage of qualified cybersecurity professionals; contribute to advancing cybersecurity innovation; and impact national initiatives that would strengthen cybersecurity for national security purposes. The Petitioner, however, has not

offered sufficient information or insight about his proposed endeavor or corroborating evidence to support his claims that his business' activities stand to provide the claimed impacts. He makes assertions in his business plan and in his personal statements but has not supported his assertions with sufficient independent and objective evidence. The Petitioner's statements are not sufficient to demonstrate his endeavor has the potential to provide the claimed broader impacts. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 l&N Dec. at 376. Also, without sufficient documentary evidence that his proposed job duties as the chief executive officer and software developer for his business have a potential broader impact, rather than benefiting his business and his proposed clients, the Petitioner has not that his endeavor is of national importance.

The Petitioner cites his commitment to cybersecurity awareness and education so that individuals and companies gain knowledge to better protect themselves from cyber threats and attacks. He also stresses that the United States has and expects to continue to have a shortage of skilled software developers and cybersecurity professionals. By disseminating his professional knowledge to educate others through his business' workshops, internships, and partnerships with universities, he claims his endeavor would contribute to addressing the shortage of cybersecurity workers and software developers. In support of his claims, the Petitioner submitted industry reports and articles relating to the impact of immigrant entrepreneurs on the U.S. economy; the expected increase in the need for software developers and cybersecurity workers; the expected increase in the demand for educational software and cyber insurance; and the benefits of investing in education.

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. *Matter of Dhanasar,* 26 I&N Dec. at 893. We noted that "[a]n 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." *Id.* at 889. Likewise, the Petitioner's intent to transfer his professional knowledge to others does not demonstrate an impact on the cybersecurity industry more broadly or rise to the level of national importance as contemplated by *Dhanasar*. Moreover, the growth and importance of an industry are not sufficient to meet the national importance requirement under the *Dhanasar* framework. We recognize the importance of the cybersecurity industry and cybersecurity technology advancements, and their related careers, as well as the significant contributions from immigrants who have become successful professionals and entrepreneurs. However, merely working in the cybersecurity industry as a software developer with artificial intelligence technologies or starting a cybersecurity business which leverages artificial intelligence is insufficient to establish the national importance of the proposed endeavor. Instead of focusing on the importance of an industry or field, or a shortage of workers in a field, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.*

The business plan asserts that the business has significant potential to employ U.S. workers and substantial positive economic effects. The business plan projects that by its fifth year, the business will have created 25 direct jobs and paid over seven million dollars in taxes. The record, however, does not sufficiently detail the basis for its financial and staffing projections, or adequately explain how these projections will be realized. Even if we were to assume everything the Petitioner claims will happen, the record lacks evidence showing that creating 25 direct jobs and paying over seven million dollars in taxes by its fifth year in business rises to the level of national importance.

The Petitioner asserts that SCOPS ignored evidence that shows his endeavor aligns with matters that the government has described as having national importance or is the subject of national initiatives, namely initiatives to enhance cybersecurity and secure national critical infrastructure sectors. He claims his cybersecurity business would safeguard critical sectors, such as finance, healthcare, and energy from account takeover attacks, thereby protecting critical infrastructure, enhancing national security, fostering innovation, and promoting economic stability. While the importance of government initiatives, such as those by the U.S. Department of Homeland Security and the Cybersecurity and Infrastructure Security Agency, is not in dispute, their overall significance does not establish the national importance of the Petitioner's proposed endeavor in particular. Strengthening cybersecurity of critical infrastructure may be important to the U.S. economy and national security, however, it does not follow that an individual providing cybersecurity work for individual and business clients has national importance.

As discussed earlier, working in or establishing a business in an important field is insufficient on its own to establish the national importance of the proposed endeavor. Instead, we focus on the "the specific endeavor that the foreign national proposes to undertake" and consider the endeavor's "potential prospective impact." *Id.* The Petitioner makes general statements about his business' potential impact on national initiatives but does not quantify the proposed endeavor's expected impact in the identified areas of concern, or provide objective, probative evidence to support his contentions. Although the Petitioner has shown that enhancing the cybersecurity of critical infrastructure sectors are nationally important issues, he has not demonstrated the potential prospective impact of his specific endeavor to such nationally important matters.

Instead of focusing on his endeavor to demonstrate it is of national importance, the Petitioner's statements and business plan emphasize his academic credentials and professional experience in the field. To support his assertions, he points to recommendation letters from his work colleagues.[3] The letters, however, mainly make general statements attesting to his technical skills used for his current and former employers. For instance, a work colleague attests to valuing the Petitioner's work as a technical investigator, his collaboration skills, and his ability to resolve issues which benefit his employer and its clients. Other letters provide similar general statements about the Petitioner's technical knowledge and customer service skills while recommending the Petitioner for future work on technical support teams. The letters do not mention the Petitioner's proposed endeavor.

The Petitioner's reliance on his academic achievements and professional experience to establish the national importance of his proposed endeavor is misplaced. His achievements and experience, instead, 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 the Petitioner proposes to undertake is of national importance under *Dhanasar's* first prong.

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[3] With the appeal, the Petitioner submitted new letters of recommendation to establish he qualifies for the national interest waiver. We will not consider this new evidence for the first time on appeal, as it was not presented to SCOPS after the Petitioner had an opportunity to do so with his response to SCOPS' request for evidence. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial").

Beyond general assertions, the Petitioner has not demonstrated that the work he proposes to undertake as the chief executive officer and software developer of his proposed cybersecurity business offers original innovations that contribute to advancements in his field or otherwise has potential broader implications. He does not sufficiently explain or provide evidence demonstrating how his business will contribute to enhancing the cybersecurity industry and to developing cybersecurity technology innovation. The claimed impacts depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between his proposed work and the claimed results. The standard of proof in this proceeding is a preponderance of evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.*; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). After considering the totality of the circumstances, the Petitioner has not demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance.

SCOPS further determined that the Petitioner did not establish that he is well-positioned to advance his proposed endeavor under *Dhanasar's* second prong, and 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 under *Dhanasar's* third prong. Because the documentation in the record does not sufficiently establish the Petitioner qualifies for the first prong of the *Dhanasar* precedent decision, he 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. at 25; *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).

III. CONCLUSION

As the Petitioner has not established eligibility under the requisite first prong of the *Dhanasar* analytical framework, he 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.