U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39933033

Date: OCT. 27, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a technical lead software developer and 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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish that a waiver of the classification's job offer requirement, 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 because the Petitioner's benefit request is incomplete and cannot be approved. 8 C.F.R. § 204.5(k)(4)(ii). We further conclude that the Petitioner did not establish that his proposed endeavor has national importance and thus, he did not meet the national importance requirement of the first prong of the *Dhanasar* framework. *See Matter of Dhanasar*, 26 I&N Dec. 884, (AAO 2016).

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. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.[1] 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent

[1] Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 matter of discretion,[2] 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.

Id.

All petitions requesting a national interest waiver of the job offer requirement must be accompanied by two fully executed copies of U.S. Department of Labor (DOL) Form ETA 750B, Statement of Qualifications of Alien. 8 C.F.R. § 204.5(k)(4)(ii).[3]

II. ANALYSIS

The Petitioner states that he has more than 17 years of experience as a software development professional, primarily in the banking and financial industry. He states that his proposed endeavor is to work in "data processing and analysis techniques." With the initial filing the Petitioner submitted his resume, evidence of his education and experience, and certificates of achievement and recognition.

Following initial review, SCOPS issued a request for evidence (RFE), allowing the Petitioner an opportunity to submit additional evidence in attempt to establish his eligibility for the national interest waiver. SCOPS noted that the Petitioner did not provide all required initial evidence, specifically a completed Application for Permanent Employment Certification (Form ETA 750, Part B or ETA Form 9089, Sections J, K and L), as required by the regulation at 8 C.F.R. § 204.5(k)(4)(ii).

In the RFE, SCOPS also stated that the record lacked a specific and well-detailed description about what the Petitioner endeavors to do in the United States. SCOPS noted that the Petitioner described his proposed endeavor "in terms of what he has already done but [did] not outline in specific detail what he will do in the future." The Petitioner's response to the RFE included additional recommendation and support letters, a revised resume, and copies of evidence already in the record. He also submitted articles and industry reports discussing data collection and analysis, financial technology, and a talent shortage in the technology industry.

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[2] *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

[3] Alternatively, petitioners may submit two fully executed copies of DOL ETA Form 9089, Application for Permanent Employment Certification, with employee-specific portions completed. *See generally* 6 *USCIS Policy Manual* F.5(D), https://www.uscis.gov/policy-manual.

In response to the RFE, the Petitioner stated, "My expertise in data processing and analysis techniques in digital financial technology is critical to the advancement of efficient and secure financial infrastructure in the United States, particularly in online banking systems and mortgage data processing." However, the Petitioner did not provide a specific and detailed description of his proposed endeavor. Nor did the Petitioner provide a completed Application for Permanent Employment Certification (Form ETA 750, Part B or ETA Form 9089).

After reviewing the Petitioner's RFE response, SCOPS determined that the Petitioner was a member of the professions holding an advanced degree.[4] SCOPS also determined that the Petitioner had submitted sufficient evidence to demonstrate that his proposed endeavor has substantial merit and that he is well-positioned to advance his proposed endeavor. However, SCOPS concluded that the Petitioner did not establish that his proposed endeavor has national importance. SCOPS further concluded that the Petitioner had not demonstrated that, on balance, waiving the job offer requirement would benefit the United States. SCOPS stated that the record did not demonstrate that the Petitioner's proposed endeavor will have a regional or national impact at a level consistent with having national importance, or that the Petitioner's work will have broader implications in his field of endeavor. SCOPS noted that the Petitioner's reliance on the importance of the field is insufficient to establish that his proposed endeavor is of national importance. Additionally, SCOPS determined that the Petitioner did not demonstrate national interest factors such as the impracticality of a labor certification, the benefit of his prospective contributions to the United States, an urgent national interest in his contributions, the potential creation of jobs, or that his self-employment does not adversely affect U.S. workers.

On appeal, the Petitioner submits a brief and asserts that SCOPS misapplied the framework of *Matter of Dhanasar*, 26 I&N Dec. 884, and overlooked evidence in the record. In his brief on appeal, the Petitioner references evidence already in the record and states that this evidence demonstrates by a preponderance of the evidence that he merits a national interest waiver.

As an initial matter, and as explained in the RFE, the Petitioner did not submit a completed Application for Permanent Employment Certification (Form ETA 750, Part B or ETA Form 9089), as required by the regulation at 8 C.F.R. § 204.5(k)(4)(ii). For this reason alone, the petition is not approvable. All benefit requests must include all the initial evidence required by applicable regulations and other USCIS instructions, and the absence of such evidence is grounds for denying that benefit request. 8 C.F.R. § 103.2(b)(1), (b)(8)(ii).[5]

Although the lack of required initial evidence is dispositive in this case, even if the Petitioner had submitted the required initial evidence, we would still dismiss this appeal because the record does not establish that a waiver of the classification's job offer requirement, and thus of the labor certification, would be in the national interest.

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[4] The record demonstrates that the Petitioner holds the equivalent of a U.S. bachelor's degree awarded in 2004 and possesses at least five years of progressive post-baccalaureate experience in software engineering and development. *See* 8 C.F.R. § 204.5(k)(3)(i)(B).

[5] We further note that if, as here, a petitioner does not submit requested evidence in response to an RFE, and that evidence is dispositive of the benefit request, their petition shall be denied on that basis. 8 C.F.R. § 103.2(b)(14).

A. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of 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.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* "When explaining the endeavor, the petitioner should do so in a straightforward manner and clearly lay out the potential direct impacts of the endeavor and whether the endeavor will be furthered through the course of the person's duties at a particular employer or some other way." 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policymanual.

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead we focus on "the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. We consider the potential prospective impact of the proposed endeavor. *Id.* In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and 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.

The petitioner in *Dhanasar* provided a very detailed description of his research plans, focusing on hypersonic propulsion systems, computational fluid dynamics, and applications of research in these areas on the development of aircraft and spacecraft propulsion systems. *Id.* at 891-2. Here, the Petitioner makes general statements about his past career accomplishments and "expertise in financial technology, mortgage data processing, and banking systems." Although the Petitioner states that his work "enhances the accuracy, security, and efficiency of mortgage data processing automation, digital banking, and remittance processing," he has not described his proposed endeavor in detail. The record is insufficiently detailed to support a finding under the first prong of the *Dhanasar* analytical framework.

On appeal, the Petitioner asserts that SCOPS overlooked evidence that he provided with the RFE response that "included specific examples of how [his] work in mortgage data processing automation and digital banking aligns with national policy goals." He states that SCOPS did not recognize that his "specific projects such as automated mortgage document processing and compliance automation, directly serve national policy initiatives."

As noted above, when determining national importance, we examine the Petitioner's specific proposed endeavor, rather than focusing on the importance of the industry or profession in which the individual will work. *See Id.* at 889; *see also* 6 *USCIS Policy Manual* F.5(D)(1), ("In determining national importance, the officer's analysis should focus on what the beneficiary will be doing rather than the specific occupational classification."). While we recognize the importance of secure mortgage data processing and digital finance technology, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. The record lacks sufficient detail about the Petitioner's proposed endeavor to understand how it will help the United States in "reducing

mortgage costs and improving housing affordability, enhancing financial efficiency and system security, and improving decision-based lending analytics for non-traditional borrowers," as the Petitioner claims. *See generally Id.* at F.5(D)(2).

The Petitioner also references recommendation and support letters from former colleagues. While we acknowledge that the letters describe the Petitioner's achievements in the field of digital financial technology and praise his qualifications and professionalism, the Petitioner's skills, expertise, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the specific endeavor he proposes to undertake has national importance under *Dhanasar's* first prong.

The purpose of a national interest waiver is not to enable a petitioner to engage in a U.S. job search. A petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. *See generally* 6 *USCIS Policy Manual* F.5(D)(1) (providing, as guidance, the term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation). In determining national importance, "The analysis considers whether the petition contains *substance that explains and substantiates* how working in the proposed endeavor meets the national importance standard." *Id.* at F.5(D)(3) (emphasis added). Here, the record lacks specificity with respect to the Petitioner's proposed endeavor, which precludes us from analyzing whether the proposed endeavor has national importance under the first prong of the *Dhanasar* framework.

B. Well-Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Matter of Dhanasar*, 26 I&N Dec. 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.*

Although SCOPS concluded that the Petitioner had met the second prong of *Dhanasar*, as discussed above, we conclude on appeal that the record lacks a detailed description of the Petitioner's proposed endeavor. Because the Petitioner has not described his proposed endeavor with sufficient specificity, we are precluded from determining whether he is well-positioned to advance it. Therefore, we must withdraw SCOPS' determination that the Petitioner has met the second prong of the *Dhanasar* framework.

As noted above, the Petitioner did not submit a completed Application for Permanent Employment Certification as required by the regulation at 8 C.F.R. § 204.5(k)(4)(ii) and the appeal is dismissed on this basis. Further, as discussed above, the Petitioner has not described his proposed endeavor sufficiently to establish its national importance as required by the first prong of the *Dhanasar* framework. Therefore, he is not eligible for a national interest waiver and further discussion of the balancing factors under the third prong would serve no meaningful purpose. Because the identified

basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the remaining *Dhanasar* prongs. *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 alternative issues on appeal where an applicant is otherwise ineligible).[6]

III. CONCLUSION

As the Petitioner has not submitted required initial evidence, nor established that he meets all of the requisite three prongs set forth in 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.

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.

[6] Even if we had addressed the remaining issues, we still would have dismissed this appeal. On appeal, the Petitioner references the same supporting evidence submitted with the original petition and RFE response and does not provide any new evidence. SCOPS fully addressed the previously submitted evidence and explained how it was deficient in establishing that the Petitioner met all three *Dhanasar* factors and would be eligible for a national interest waiver. The Petitioner's assertions on appeal do not establish that he meets all of the three *Dhanasar* prongs.