U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39546395

Date: SEPT. 29, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a software development manager, 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 degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

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
- 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 master's degree in international business from [redacted] in Ireland, and we agree. 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.

[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 Petitioner proposed to work in the United States as a software development manager. Specifically, the Petitioner stated that he intends to benefit U.S. based information technology companies and impact U.S. software development cybersecurity sectors by developing and implementing a security automation platform for cloud services to improve threat detection, streamline incident response, and strengthen the resilience of the U.S. industry's cloud infrastructure.

SCOPS determined that the Petitioner's proposed endeavor to work as a software development manager 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. On appeal, the Petitioner contends that the decision of SCOPS contained numerous erroneous conclusions of both law and fact.

The Petitioner argues that SCOPS erred by failing to acknowledge the national importance of his proposed endeavor because his initiative directly aligns with federal policy objectives in cybersecurity, critical infrastructure protection, and digital resilience, such as Executive Order 14144: "Strengthening and Promoting Innovation in the Nation's Cybersecurity," guidelines issued by the Cybersecurity and Infrastructure Security Agency (CISA) encouraging the use of secure, scalable, and proactive cybersecurity frameworks, the 2024 National Cybersecurity Strategy Implementation Plan, and the 2024 National Institute of Standards and Technology (NIST)'s Cybersecurity Framework 2.0. The Petitioner asserts that his endeavor supports national efforts in securing cloud environment by integrating real-time threat detection, automated response protocols, regulatory compliance, and operational resilience.

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. *See id.*

The presidential executive order and implementing guidelines, plan, and framework issued by federal agencies may support the importance of cybersecurity, critical infrastructure protection, and digital resilience. However, the federal policy objectives in cybersecurity do not directly address the Petitioner's specific proposed undertaking and do not indicate that the government has a particular interest in the Petitioner's planned business activities. The record does not adequately explain how his proposed endeavor to develop and implement a security automation platform for cloud services 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 cybersecurity sector, the U.S. industry's cloud infrastructure, the U.S. economy, or the U.S. national security more broadly. *See id.* at 889.

The record includes the Petitioner's professional plan in which the Petitioner discusses how he intends to continue his work in the United States. In a supplement to the professional plan, the Petitioner further provides details on how he intends to execute his proposed endeavor, including his objectives, the timeline to reach his objectives, resources, and support. While the Petitioner's statements reflect

his intention to develop and implement a security automation platform for cloud services for information technology companies in the United States, he has not provided sufficient information and 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 software development, the cybersecurity sector, or U.S. industry's cloud infrastructure more broadly at a level commensurate with national importance. *See id.* at 889.

As for the economic value that the Petitioner asserts his proposed endeavor will offer, the Petitioner claims that his platform introduces intelligent automation to reduce incident response times and limit the scope and duration of breaches, thereby significantly lowering direct financial losses and indirect operational disruptions. The Petitioner points out that the average global costs of a data breach have surged to $4.88 million in 2024 and emphasizes that the rising cost of cyber incidents highlights the urgent need for automation in security.

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.

Once the Petitioner's platform is developed as it intended and fully implemented, it may reduce incident response times and limit the scope and duration of data breaches, thereby lowing direct financial losses and indirect operational disruptions in the long term. However, 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 software development management services or his security automation platform for cloud services 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 show that the benefits to the regional or national economy resulting from the Petitioner's software development projects would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *See id.* Accordingly, the Petitioner has not sufficiently demonstrated that his proposed endeavor is of national importance.

The Petitioner submitted his resume, copies of his diplomas and academic transcripts, evidence of his membership with professional organizations, professional certifications, training certificates, awards from his former employers, and employment and income verification letters from his current and former employers. He also provided an expert opinion letter from a professor of computer science and information systems at [redacted] which asserts that the Petitioner qualifies for a national interest waiver. The record also contains recommendation letters from experts in the field, including his former colleagues and manager, which discuss projects the Petitioner worked on for his former employers, the results of the projects, and his contributions to his former employers. These documents demonstrate the Petitioner's academic and professional achievements, technical

skills and expertise in cloud security and automation, and leadership skills at global technology companies. While we acknowledge the Petitioner's past achievements and contributions to his former employers as evidenced by various documents submitted to USCIS, the Petitioner's education, training, work experience, professional memberships, and professional achievements are relevant under the second prong of *Dhanasar* to support that he is well-positioned to advance the proposed endeavor. *See Dhanasar*, 26 I&N Dec. at 890. The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *See id.* at 889.

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 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).