U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39501900

Date: SEP. 30, 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 although the Petitioner is a member of the professions holding an advanced degree, he did not establish the national importance of his endeavor under prong one or his eligibility under prong three of the *Dhanasar* analytical framework for a discretionary[1] national interest waiver of the job offer requirement. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) (establishing a three-pronged analytical framework for a national interest waiver).[2] 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.

At the outset, we agree with SCOPS' determination that the Petitioner is an advanced degree professional within the meaning of section 203(b)(2) of the Act and that he met prong two of the *Dhanasar* analytical framework, where we consider whether a petitioner is well-positioned to advance

[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 U.S. Citizenship and Immigration Services' (USCIS) decision to grant or deny a national interest waiver is discretionary in nature).

[2] 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. If a petitioner demonstrates eligibility for the underlying EB-2 classification, he or she must then establish that he or she merits a discretionary waiver of the job offer requirement "in the national interest." *Id. Matter of Dhanasar* states that USCIS may, as a matter of discretion, 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 his or her proposed endeavor; and, on balance, waiving the job offer requirement would benefit the United States. *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

his proposed endeavor. We also agree with SCOPS' determination that the Petitioner has established the substantial merit of his proposed endeavor under prong one of the *Dhanasar* analytical framework. However, we adopt and affirm SCOPS's decision relating to national importance under prong one of the *Dhanasar* framework. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

The Petitioner's proposed endeavor is to work as a senior software engineer at a company (like Oracle Health, Amazon Web Services or similar company) and develop state-of-the-art generative artificial intelligence models.[3] The Petitioner plans to apply his [redacted], ensuring faster convergence and enabling domain-specific AI models to achieve high performance with reduced computational complexity." The Petitioner asserts that his [redacted] framework will be an open source for startups and academic institutions to leverage "without the need for extensive computational resources" and use to develop "cost-effective, scalable AI solutions, accelerating progress in finance, healthcare, and smart transportation."

SCOPS summarized the Petitioner's evidence and analyzed why it did not establish his eligibility for a national interest waiver under prong one. In so doing, SCOPS considered USCIS' STEM policy[4] in the context of national interest waivers but determined that "STEM activities which do not impact a field more broadly are not of national importance." SCOPS also addressed the Petitioner's assertions regarding his profession's inclusion in the "Critical and Emerging Technologies List Update" but concluded that because there were no letters from interested U.S. government agencies or quasi-governmental entities in the United States to support his assertion that his proposed endeavor promises to "advance a critical and emerging technology or is otherwise important for purposes of maintaining the United States' technological prominence," he had not demonstrated his endeavor's national importance. SCOPS also considered and analyzed industry reports and articles submitted by the Petitioner to establish that his field, machine learning and artificial intelligence, are areas of national importance, but determined that although these subjects are important to the economy, the Petitioner had not established how his particular employment in this field would rise to the level of national importance as contemplated by *Dhanasar*. In sum, SCOPS acknowledged that while his endeavor could be valuable to his employer, the evidence was insufficient to establish that it would impact his field or our economy more broadly and was thus insufficient to be considered of national importance.

SCOPS issued two requests for additional evidence (RFE) in this matter. In the first RFE, SCOPS noted that the Petitioner had "established the field of endeavor has substantial merit and national interest" and further determined the "petitioner is well positioned to advance the proposed endeavor" under the second *Dhanasar* prong. The RFE notified the Petitioner that the evidence was insufficient to establish that on balance it would be beneficial to the United States to waive the requirements of a

[3] On appeal, the Petitioner asserts SCOPS erred by failing to mention his current employer [redacted]. We disagree with this assertion. The Petitioner asserts his proposed endeavor will have applications for various fields including healthcare, finance, autonomous driving technology, among others. As such, the Petitioner asserts that the endeavor has implications in various fields, and SCOPS failure to include [redacted] in the decision does not change the analysis of his endeavor's national importance.

[4] *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual ("Specific Evidentiary Considerations for Persons with Advance Degrees in Science, Technology, Engineering, or Mathematics (STEM) Fields.")

job offer and thus of a labor certification under prong three of the *Dhanasar* framework. In the second RFE, SCOPS laid out *Dhanasar's* three-pronged analytical framework and determined that while the Petitioner had established the substantial merit of his proposed endeavor, he had not established how his work as a senior software engineer was of national importance as contemplated by *Dhanasar*. SCOPS' second RFE provided him with an opportunity to submit additional evidence to establish his endeavor's national importance. The second RFE further notified the Petitioner that he had met the requirements under *Dhanasar's* second prong and that even after considering the additional evidence submitted in response to the first RFE, the Petitioner had failed to establish that on balance, a waiver of the job offer and labor certification requirement, was in the United States' national interest.

On appeal, the Petitioner asserts that SCOPS erred when it issued the second RFE because it did not provide a substantive reason for changing the national importance analysis. We disagree with the Petitioner's characterization. SCOPS' first RFE named an incorrect standard for *Dhanasar*'s prong one analysis ("national interest" versus national importance). The USCIS Policy Manual states that "[i]n certain instances, the evidence provided in response to an RFE may raise eligibility questions that the officer did not identify during initial case review or open new lines of inquiry. In such a case, the officer may issue a follow-up RFE or NOID." *See generally* 1 *USCIS Policy Manual* E.6(F)(3), https://www.uscis.gov/policy-manual. Here, SCOPS properly identified the correct standard in its second RFE. The Petitioner was given notice of the deficiency and provided an opportunity to respond with additional evidence to establish the national importance of his proposed endeavor, thus complying with 8 C.F.R. § 103.2(b)(8)(iii). As such, the Petitioner's assertion that the issuance of a second RFE constitutes abuse of discretion is not supported by the record in this matter.

On appeal, the Petitioner also claims SCOPS held him to a higher than preponderance of the evidence standard and ignored probative evidence. In particular, the Petitioner asserts that SCOPS failed to consider his endeavor is on the authoritative list of critical and emerging technologies (CET), which contributes to U.S. competitiveness, and that the letters from four experts supporting his petition were ignored. The Petitioner highlights one expert's description of his work's impact on license plate recognition systems; the letter states that the systems have national security implications, provide a global competitive advantage to the United States, improve the safety of U.S. citizens, and improve efficiency in the overall system. The Petitioner also highlights statistics related to the importance of AI technologies in the U.S.'s healthcare system because they will save 5-10% on healthcare spending. The Petitioner also highlights his work on [redacted][5] to demonstrate how his contributions to AI and machine learning technologies can lead to a broader impact on an industry (in that case, the finance industry). Finally, he asserts that his collaboration with leading researchers in the field as well as his citation record indicate that his research is of national or global importance in his field.

In our de novo review, we have considered the Petitioner's assertions. Here, SCOPS properly considered the Petitioner's evidence submitted in support of his endeavor's national importance and

[5] In the second RFE, SCOPS noted that due to "poor printing or transfer through the USCIS systems" the Petitioner was unable to substantiate his claim that he had pioneered the project [redacted] The blurry quality of the scanned documents relating to [redacted] impacts the probative value of this evidence. In response to the second RFE, the Petitioner resubmitted a page with general information about [redacted] which does not mention his contributions to its development but instead describes what the product is. The Petitioner also submitted a page purporting to show that he contributed "46 commits 12,638 ++ 7,175 –" to [redacted] however this page does not appear related to [redacted] and does not clearly explain what these contributions mean to its development.

correctly analyzed and explained deficiencies in the record. Thus, we conclude the Petitioner was held to the proper preponderance of the evidence standard and SCOPS sufficiently considered the expert letters submitted on his behalf, as well as his assertions as to his endeavor's impact on the fields of AI and machine learning. Further, SCOPS correctly noted that under the *Dhanasar* framework, it is not the importance of the field but the specific proposed endeavor that is relevant. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. And, finally, as stated above, SCOPS evaluated the proposed endeavor with respect to our STEM guidance and the inclusion of the software engineering field in the CET list but determined that it was insufficient to establish national importance because there was no evidence of interest in his proposed endeavor from U.S. government agencies or quasi-governmental entities. In addition to SCOPS' analysis, we note that expert letters are advisory in nature. *See Matter of Caron Int'l, Inc.*, 18 I&N Dec. 791, 795 (Comm'r 1988) (stating that USCIS "is responsible for making the final determination regarding a beneficiary's eligibility for the benefit sought."). Thus, we agree with SCOPS that the letters are relevant to and help establish the endeavor's substantial merit under prong one of the *Dhanasar* framework, they are insufficient to establish its national importance.[6]

As stated, we adopt and affirm SCOPS' decision regarding the Petitioner's eligibility under the first *Dhanasar* prong. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the third prong 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).

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] We further note that the expert letters provided are relevant to and were considered part of our analysis of whether the Petitioner established his eligibility under *Dhanasar's* second prong. And, as stated above, we agreed with SCOPS that the Petitioner did establish he is well-positioned to advance his proposed endeavor.