U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38495584

Date: APR. 8, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, an information technology (IT) consultant, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement that is 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 proposed endeavor has substantial merit and national importance, that the Petitioner is well positioned to advance the proposed endeavor, and that a waiver of the required job offer would be in the national interest. The Petitioner subsequently appealed claiming that SCOPS failed to analyze the Petitioner's qualification for the underlying EB-2 classification and made erroneous statements of law in concluding that the Petitioner does not merit the national interest waiver. We remanded the matter for a new decision, and SCOPS again denied the petition. The matter is once more 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.

Only those who demonstrate "a degree of expertise significantly above that ordinarily encountered" are eligible for classification as individuals of exceptional ability. 8 C.F.R. § 204.5(k)(2).

The regulation at 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F) sets forth the following six criteria, at least three of which a petitioner must initially submit in order to qualify as an individual of exceptional ability in the sciences, the arts, or business:

(A) An official academic record showing that the [individual] has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability;

(B) Evidence in the form of letter(s) from current or former employer(s) showing that the [individual] has at least ten years of full-time experience in the occupation for which he or she is being sought;

(C) A license to practice the profession or certification for a particular profession or occupation;

(D) Evidence that the [individual] has commanded a salary, or other remuneration for services, which demonstrates exceptional ability;

(E) Evidence of membership in professional associations; or

(F) Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. 6 *USCIS Policy Manual* F.5(B)(2), https://www.uscis.gov/policy-manual (confirming the applicability of this two-part adjudicative approach in the context of aliens of exceptional ability). We will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having a degree of expertise significantly above that ordinarily encountered in the field. *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.

[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).

II. ANALYSIS

A. Exceptional Ability

The Petitioner claimed that he "qualifies for an EB-2 Visa because he is an IT Consultant of Exceptional Ability"[2] and indicated that his proposed endeavor is to "continue his career by working as IT Consultant, providing security during the development stages of software systems, networks, and data centers." The Petitioner offered evidence that he satisfies five of the six initial criteria at 8 C.F.R. § 204.5(k)(3)(ii) as an individual of exceptional ability, but SCOPS did not provide any analysis or specific determination regarding the Petitioner's eligibility for the underlying EB-2 classification.

Upon review of the evidence, we conclude that the Petitioner has not met at least three of the required initial criteria as an individual of exceptional ability. The Petitioner meets only one criterion at 8 C.F.R. § 204.5(k)(3)(ii)(B) (having at least ten years of full-time experience in the occupation) as the record contains an employment verification letter from [redacted],[3] stating that the Petitioner worked full-time with the company "since year 2001 going through several positions" in the IT department.[4] However, the record does not demonstrate that the Petitioner meets any of the remaining criteria, as discussed below.

1. Criterion at 8 C.F.R. § 204.5(k)(3)(ii)(A)

This criterion requires official academic record showing that the Petitioner has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability. The Petitioner did not submit any evidence of his official academic record.[5]

Therefore, the Petitioner did not demonstrate that he meets this criterion.

2. Criterion at 8 C.F.R. § 204.5(k)(3)(ii)(C)

This criterion requires "[a] license to practice the profession or certification for a particular profession or occupation." The Petitioner submitted certificates of completion from workshops, training, or online classes that he attended for learning IT-related skills. But he has not explained how these certificates are comparable to a license or certification to practice his profession. Also, the Petitioner did not contend that this criterion is not readily application to his occupation and that the evidence provided is truly comparable to this criterion. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(B)(2).

---

[2] The Petitioner did not claim that he qualifies for the underlying EB-2 classification as an advanced degree professional.
[3] [redacted] is a company in the Dominican Republic that produces and distributes alcoholic, non-alcoholic, and carbonated beverages.
[4] The Petitioner first worked as "System Analyst & Programmer" for two years, then as "Information Technology Coordinator" and "Information Technology Senior Coordinator" from 2006 to 2021, and as "Information Technology Specialist" for nine months in 2021.
[5] The business plan in the record indicates that the Petitioner has a high school diploma.

Although the Petitioner submitted another certificate which states that he is "certified as Solution Consultant SCM- Procurement with mySAP ERP 2005," the record lacks any supporting evidence explaining the nature of this certificate or establishing the requirements for obtaining this certificate. Licensure to practice a profession and certification for a profession or occupation generally demonstrate a level of knowledge or skill associated with the related occupation. The Petitioner's general assertions, without more, are not probative evidence. *See id.* Therefore, the Petitioner has not sufficiently demonstrated that this certificate shows the same caliber of expertise as receiving a license to practice the profession or a certification for a particular profession.

Therefore, the Petitioner did not demonstrate that he meets this criterion.

3. Criterion at 8 C.F.R. § 204.5(k)(3)(ii)(D)

The criterion at 8 C.F.R. § 204.5(k)(3)(ii)(D) requires "[e]vidence that the alien has commanded a salary, or other renumeration for services, which demonstrates exceptional ability." To satisfy this criterion, the evidence must show that an individual has commanded a salary or remuneration for services that is indicative of their claimed exceptional ability relative to others working in the field. *See* 6 *USCIS Policy Manual*, *supra*, at F.5(B)(2).

The Petitioner submitted a document with [redacted]'s logo purportedly increasing his salary to "DOP [Dominican Peso] $114,625.43" and this increase "will be reflected in the first half of June." However, the document does not include the name or position of the person who authorized this salary increase, or the date of this salary increase. Aside from this single document, the Petitioner does not offer other corroborating evidence of his salary, such as his tax returns or paystubs. Furthermore, the Petitioner has not provided probative evidence that his salary is a direct result of his exceptional ability.

Additionally, the Petitioner included a printout from Glassdoor.com showing the average base pay for "Information Technology Specialist Salaries in [redacted], Dominican Republic" is "DOP 115K/mo." Although the Petitioner claimed that his salary far exceeds the average salary for IT Consultants in Dominican Republic, the evidence from Glassdoor.com does not support that his claimed salary of DOP $114,625.43 is higher than a typical IT specialist or consultant in similar geographical area.

Accordingly, the Petitioner did not meet this criterion.

4. Criterion at 8 C.F.R. § 204.5(k)(3)(ii)(E)

The criterion at 8 C.F.R. § 204.5(k)(3)(ii)(E) requires "[e]vidence of membership in professional associations." The Petitioner claimed that his membership with "Association of Independent Information Professionals" (AIIP) satisfies this criterion and that AIIP is a professional association. The Petitioner provided a printout from AIIP website showing that he has been a member since July 29, 2021. But the record does not provide any supporting documentation regarding this association, such as its bylaws or guidelines for membership, to demonstrate that AIIP has a membership body comprised of individuals who have earned a U.S. baccalaureate degree, or its foreign equivalent, or that the organization otherwise constitutes a professional association. *See* 8 C.F.R. § 204.5(k)(2) (defining profession to mean "one of the occupations listed in section 101(a)(32) of the Act, as well

as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry in the occupation"). Additionally, the Petitioner has not provided any evidence that he has a foreign equivalent of a U.S. bachelor's degree.

Therefore, the Petitioner has not demonstrated that this association is "professional" within the meaning of the regulation, and we conclude that he does not meet this criterion.

5. Criterion at 8 C.F.R. § 204.5(k)(3)(ii)(F)

The criterion at 8 C.F.R. § 204.5(k)(3)(ii)(F) requires "evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations." The Petitioner submitted letters of recommendation from his former colleagues at [redacted] who highlight projects completed by the Petitioner and praise his professional abilities and personal traits. However, they do not indicate how the petitioner has been recognized for his achievements, nor do they explain his contributions have risen to the level of "significant" consistent with this regulation. Without detailed, probative information, the letters do not show how the Petitioner impacted or influenced the field or industry in a significant manner beyond his former employer.

Therefore, the Petitioner did not establish that he meets this criterion.

For the reasons set forth above, the evidence does not establish that the Petitioner satisfies at least three of the criteria at 8 C.F.R. § 204.5(k)(3)(ii) and has achieved the level of expertise required for exceptional ability classification. We therefore need not conduct a final merits analysis but have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the recognition required for classification as an individual of exceptional ability.

B. National Interest Waiver

As we conclude that the Petitioner has not established eligibility for the underlying visa classification, further evaluation of the Petitioner's eligibility under the *Dhanasar*'s prongs would serve no meaningful purpose. *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). Nevertheless, we will provide analysis under *Dhanasar*'s first prong, whether the proposed endeavor has substantial merit and national importance, to lend clarity to the confusing wording in SCOPS' decision and address the Petitioner's contentions on appeal.

The Petitioner claimed that his proposed endeavor will have broad implications for the U.S. business market, specifically through the implementation of IT solutions and digital transformation. The Petitioner stated that he will "continue developing complex IT projects, to deliver high-impact technological solutions that serve the national interest, as his innovations generate business, contribute to the GDP growth, create new IT solutions that are cost effective that will benefit U.S. citizens and further employ U.S. workers" and "bridge the gap between technology and productivity, in turn, generating substantial positive economic effects that will contribute to the U.S. national economy through driving technological transformation."

On appeal, the Petitioner contends that SCOPS did not apply the correct legal standards in adjudicating the endeavor's substantial merit. We agree that SCOPS' discussion regarding substantial merit is confusing as it appears to evaluate the endeavor's national importance. We, therefore, withdraw SCOPS' determination and conclude that his endeavor is of substantial merit. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Matter of Dhanasar,* 26 I&N Dec. at 889. Here, the Petitioner has provided industry articles and reports showing that technological advances and innovative IT solutions in businesses are valuable to the nation.

While the Petitioner has established his proposed endeavor has substantial merit, we conclude that he has not established its national importance. The overall evidence offers little corroborative evidence or explanation to support the endeavor's national importance. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" and endeavors that have broader implications, such as "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90.

The Petitioner asserts on appeal that SCOPS required additional legal standards beyond what is required in *Dhanasar* when the decision stated: "the record does not show that the petitioner has developed applications that are widely used by individuals and corporate entities to combat cyber attacks." The Petitioner further contends on appeal that SCOPS did not thoroughly review the corroborating evidence demonstrating the endeavor's broad impact, such as "numerous articles and reports" that "clearly illustrate the critical importance of IT consulting" and a business plan with "the specific steps he intends to take within the field and the anticipated national and global impact of his work – all supported by data and analysis."

However, we do not find the Petitioner's claims persuasive. First, we conclude that SCOPS' statement properly evaluates whether the Petitioner's evidence shows "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances," as contemplated in *Dhanasar. Id.* at 889. The Petitioner has not provided any details regarding his particular IT solutions or complex IT projects that will be widely used by the businesses and benefit the nation, as he claimed. As a comparison, 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, we gave significant weight to "probative expert letters from individuals holding senior positions in academia, government, and industry that describe the importance of hypersonic propulsion research as it relates to U.S. strategic interests" and "detailed expert letters describing U.S. Government interest" in Dr. Dhanasar's specific research. *Id.* at 892. Here, the Petitioner has not provided similar evidence, such as the type of expert opinion evidence or letters from government entities or industry as a whole detailing how his specific endeavor impacts a matter that is a subject of national initiatives, despite claiming that the Petitioner's talent, contributions, and area of focus, are in demand by his employer and its customers.

Secondly, the Petitioner has not sufficiently supported his assertions that he will produce innovations or high-impact technological solutions or develop complex IT projects rising to the level of national importance. Although the Petitioner provided industry articles and reports on the importance of STEM workers and increasing demand for the technology sector, especially in the artificial intelligence (AI) software market, 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 "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. We recognize the value of information technology to businesses; however, merely working in an important field is insufficient to establish the national importance of the proposed endeavor.

The Petitioner offered several reference letters discussing his past work and successes in order to demonstrate how he might produce similar results through his proposed endeavor. But the letters do not address the Petitioner's future endeavor with persuasive details, such as how it stands to sufficiently extend beyond himself and his clients to impact the field, or how his IT skills or projects somehow differ from or improve upon those already available and in use in the United States. Instead of establishing the endeavor's prospective impact, the letters largely relate to the second prong of the *Dhanasar* framework, whether the Petitioner is well-positioned to advance the endeavor. *Id.* at 890.

Similarly, the expert opinion letter from a professor of computer science and information systems at [redacted] provides a general overview of the field and the Petitioner's credentials but does not include any persuasive details regarding the Petitioner's endeavor and its future impact. The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters so as to determine whether they support the petitioner's eligibility. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (an agency need not credit conclusory assertions in immigration benefits adjudications); *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (expert opinion testimony does not necessarily purport to be evidence as to "fact").

Thirdly, we conclude that the Petitioner's business plan for his consulting company does not sufficiently establish the endeavor's national importance. In the plan, the Petitioner stated that his company's aim "to support digital transformation in the U.S.," and lists a number of services that the company will provide to businesses across the country including "web development, mobile development, project management and general IT consulting services, and expand his service portfolio with business intelligence, virtual training, and IT professionals outsourcing services." The business plan states that his company "will help businesses to increase their level of sustainability" and benefit the U.S.'s national interest through "creating employment opportunities, paying taxes, and transferring knowledge to U.S. professionals."

However, the plan does not elaborate on the extent to which his company will have "substantial positive economic effects." *Matter of Dhanasar,* 26 I&N Dec. at 889-90. The business plan does not provide any financial and staffing projections or adequately explain how he intends to grow his company. The Petitioner has not provided any corroborating evidence of the nature or numerosity of clients or clients' projects to support the claims he has made in the business plan. The record contains only two letters of interest in collaborating with the Petitioner, without any additional contracts or agreements for his services. The Petitioner also has not explained how he plans to run his own

consulting company and continue his employment at the same time.[6] In addition, the record does not demonstrate that the company will have substantial impact on any economically depressed areas. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. It is insufficient to claim an endeavor has national importance or will create a broad impact without providing evidence to corroborate such claims.

We acknowledge that any offer of goods or services has the potential to benefit the economy; however, the evidence does not sufficiently demonstrate how his IT consulting services would reach the field overall or have an impact so broad as to affect the economy or create a significant number of jobs. The Petitioner's eligibility for the benefit sought is not determined by the quantity of evidence alone but also the quality. *Id.* at 376 (citing *Matter of E-M-*, 20 I&N Dec. 77, 80 (Comm'r 1989)). Accordingly, we conclude that the Petitioner has not established the national importance of his proposed endeavor.

III. CONCLUSION

The Petitioner has not established that he is eligible for the underlying classification as an individual of exceptional ability. Furthermore, the documentation in the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver.[7]

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] The Petitioner provided a job verification letter indicating that he is currently employed as an associate software engineer at [redacted] as of February 2023.

[7] 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 second and third *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. at 25.