U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37747044

Date: APR. 11, 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 the Petitioner had not established eligibility for a waiver of the required job offer, 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.

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. 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

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.* The Petitioner indicated that her intention is "to continue working in [her] area of proposed endeavor, that of Data Engineering in the energy industry," through her employment with Chevron.

As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. SCOPS determined the Petitioner established the substantial merit, but not the national importance, of the proposed endeavor. 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 foreign national proposes to undertake." *Id.*

On appeal, as with the evidence provided with her petition, the Petitioner frequently refers to her "area of proposed endeavor" and discusses her current employment, along with past and future projects. The Petitioner has stated that, "Data Engineering provides the ability to collect and process huge amounts of data which modernized the operations of the energy industry," and discusses the importance of Data Engineering. However, the record is not clear as to what the Petitioner's specific proposed endeavor actually entails, aside from continuing in her current employment, and associated projects. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of the work. *Id.* at 889. Here, the Petitioner did not demonstrate how her employment would largely influence the field and rise to the level of national importance. In *Dhanasar*, we determined 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. The record[2] does not show through supporting documentation how her endeavor sufficiently extends beyond her prospective clients or employer, to impact the field or the U.S. economy more broadly at a level commensurate with national importance.

The Petitioner contends that her personal statement discussed her current and prior projects, which included "Logistics Data Integration and Migration," "Smart GEP Enterprise Deployment and Data Integration," and "Digital Core Enterprise Deployment and Data Integration," and that these projects were disregarded in error in the SCOPS decision. However, the Petitioner's current and prior work, as well as her knowledge, skills, and abilities, 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 she proposes to undertake has national importance under *Dhanasar's* first prong. The Petitioner further indicated that she was working on future projects with topics such as "Lower Carbon Digital Project," "Process Mining for Procurement Data," and "Data Ingestion Simplification and Re-architecture." The matter here is not whether these projects, as

[2] While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

well as the topics of supply chain and procurement, or similarly related subjects, are nationally important. Rather, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of providing her services as a Data Engineer through her employment with [redacted]

Moreover, the Petitioner contends that she presented an expert opinion letter from [redacted] Ph.D., Associate Professor at the [redacted], who found her proposed endeavor to have national importance. While the letter opines on the potential benefits Data Engineering for the energy industry, the letter does not explain how they have broader implications for our country. Here, the letter repeats the same arguments addressed above pertaining to the importance of various topics and subjects without showing the wider effect in the field of the Petitioner's particular proposed endeavor. Similarly, the Petitioner provided multiple letters of reference which speak to the authors' experiences working with the Petitioner and knowledge of her projects. As noted above, the Petitioner's knowledge, skills, and abilities 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 he proposes to undertake has national importance under *Dhanasar's* first prong.

The Petitioner also contends that her endeavor falls within a STEM (science, technology, engineering, or mathematics) profession. With respect to the first prong, as in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance.[3] Many proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, not only have substantial merit in relation to U.S. science and technology interests, but also have sufficiently broad potential implications to demonstrate national importance.[4] On the other hand, while proposed classroom teaching activities in STEM, for example, may have substantial merit in relation to U.S. educational interests, such activities, by themselves, generally are not indicative of an impact in the field of STEM education more broadly, and therefore generally would not establish their national importance.[5] Here, the Petitioner has not shown that her endeavor aims to advance STEM technologies and research or has broad implications rather than providing her limited professional services by working within a STEM profession.

Finally, the Petitioner did not establish how her employment as a Data Engineer has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. Again, the expert opinion letter discusses how the "realization of cost savings" and that "maximizing and improving systems" will allow "for new projects and job opportunities" without showing the projected U.S. economic impact or job creation attributable to the Petitioner's particular employment. Here, the record does not show any benefits to the U.S. regional or national economy resulting from her specific employment would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

[3] *See generally* 5 USCIS Policy Manual D.2, https://www.uscis.gov/policymanual.
[4] *Id.*
[5] *Id.*

Because 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, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of the Petitioner's eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.[6]

ORDER: The appeal is dismissed.

[6] *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).