U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37600609

Date: APR. 18, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, [redacted], a financial services institution, 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 that the Petitioner had not established the national importance of the proposed endeavor, among other determinations. 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.*

Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[1] 8 C.F.R. § 204.5(k)(2).

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,[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.

II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree, a determination the record supports. Accordingly, the remaining issue to be determined on appeal 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. Based on our de novo review of the record, we agree that the Petitioner has not sufficiently demonstrated the national importance of the Beneficiary's proposed endeavor under the first prong.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id* at 889. The term "endeavor" is more specific than the general occupation; an individual should offer details not only as to what the occupation normally involves, but what types of work they propose to undertake specifically within that occupation. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. We also stated in Dhanasar 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.

In the initial petition, the Petitioner described the Beneficiary as an assistant [redacted] The Petitioner described the proposed endeavor as leading the integration of cloud computing, digital identity infrastructure technology, advanced data computing storage, and data processing,

[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.

[2] *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).

among other responsibilities of his current role. The Petitioner stated that the endeavor had national importance because of its direct link to the substantial positive economic, scientific, and technological advancements associated with the Beneficiary's continued work in the field. The record additionally includes letters, academic and professional information about the Beneficiary, recommendation letters, and reports and articles about both the financial services industry as well as immigrant workers in science, technology, engineering and math fields.

The Director denied the petition, concluding that the Petitioner had not established the national importance of the proposed endeavor. Specifically, the Director determined that the Petitioner had not established how the Beneficiary's work would impact the field of finance or banking more broadly. Although the Petitioner had detailed the scope of the services the Beneficiary intended to provide, the Petitioner did not demonstrate how these would extend beyond the individuals or entities utilizing them. The Director additionally determined that the record did not contain letters from interested U.S. government or quasi-governmental entities in the United States establishing the Beneficiary's expertise in the proposed endeavor such that it would advance critical technology or otherwise help maintain the United States' technological prominence. Finally, the Director also concluded that the Petitioner had not shown that the Beneficiary was well-positioned to advance the proposed endeavor or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer.

On appeal, the Petitioner submits a brief and copies of previously-submitted evidence, renewing the claim of eligibility for the national interest waiver, including the national importance of the Beneficiary's proposed endeavor. As an initial matter, we note that the beneficiary's proposed endeavor appears to be limited to the confines of his existing employment with the Petitioner. The record does not indicate, nor does the Petitioner state, that beneficiary would engage in financial services or digital technology work in additional capacities. While we recognize the goals and breadth of the Petitioner in the instant case, the overall importance of an employer does not by itself establish the national importance of a petitioner's endeavor. Benefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a person's endeavor has national importance. *See generally* USCIS Policy Alert PA-2025-03, *Second Preference Eligibility for National Interest Waiver Petitions* 13 (Jan. 15, 2025), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250115-Employment-BasedNationalInterestWaivers.pdf (providing, as guidance, factors to consider in analyzing national importance). At issue is whether the petitioner can demonstrate that the beneficiary's individual endeavor stands to have broader implications, such as for a field, a region, or the public at large. *Id.* Similarly, the Petitioner contends on appeal that [redacted] manages approximately $1.4 trillion assets and safeguards the investments of millions of Americans. Nevertheless, the Petitioner cannot rely on its market share alone to claim the Beneficiary's work is nationally important. It must show how the functions and tasks *carried out by the Beneficiary* coalesce into a nationally important endeavor.

Turning to whether the Petitioner has established the national importance of the specific proposed endeavor, the appeal brief asserts that the Director disregarded essential evidence, such as an expert opinion letter, as not probative, and that the Director misconstrued the nature of the proposed endeavor. The Petitioner argues that the testimonial letters are key to understanding the full scope of the beneficiary's contributions to the use of advanced cloud services, advanced computing, digital identity technology, cybersecurity, data security and privacy technologies to enhance the security and

efficiency of digital payments processing networks. These letters, according to the appeal brief, affirm the Beneficiary's integral role within this endeavor and articulate how it will continue to underpin the success and stability of the U.S. financial sector. We disagree. USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a noncitizen's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, *see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). While the letters in this case, authored by the Beneficiary's professional associates, describe his responsibilities and role in his current and past employment, they do not provide probative detail for how these past professional contributions extended, or would extend in the future, beyond the Beneficiary's particular employers.

The Petitioner additionally asserts that the record did contain a broader discussion of the impact of the Beneficiary's proposed endeavor, stating that the second exhibit of his request for evidence (RFE) submission clearly explained how the Beneficiary's work would have broader implications, including substantial economic effects that would directly advance the stability of the U.S. financial services sector. The Petitioner claims that the second RFE exhibit includes evidence of U.S. governmental interest in the advancement of U.S. capabilities in critical and emerging technologies. We have reviewed the second RFE exhibit, which consists of reports and articles regarding bank payment systems, digital identification, and cloud-based payments, consumer privacy, and the U.S. financial services industry. While they indicate national interest in the broader goals within the U.S. financial system the Petitioner seeks to address, they do not discuss the Beneficiary or his work individually. Despite the Petitioner's appeal arguments, the second RFE exhibit does not demonstrate the national importance of the Beneficiary's proposed endeavor. Indeed, these and other arguments on appeal focus on the national importance of the *subject matter* of the endeavor, rather than of the endeavor itself. But 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." *Dhanasar* 26 I&N, at 889.

Finally, the Petitioner argues that the Director imposed a stricter standard than the preponderance of the evidence. Nevertheless, aside from disputing the Director's conclusions about the submitted evidence, the brief did not elaborate how the Director imposed a higher evidentiary standard.

It is the Petitioner's burden to prove by a preponderance of evidence that he is qualified for the benefit sought. *Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). The Petitioner must also support his assertions with relevant, probative, and credible evidence. *Id.* at 376. As the Petitioner has not done so here, he has not sufficiently established that his proposed endeavor in the United States will have national importance under the first *Dhanasar* prong.

Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the remaining eligibility requirements for the requested national interest waiver. *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of 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.