U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39272583

Date: APR. 21, 2026

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 either a member of the professions holding an advanced degree or an individual of exceptional ability, 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).

SCOPS denied the petition. SCOPS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree; however, SCOPS also found that the record does not establish that a waiver of the job offer requirement, and thus of a 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.

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 the proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner described the proposed endeavor as a plan to found and operate a civil engineering consulting services company based in [redacted] Massachusetts.

As an initial matter, SCOPS determined that the Petitioner qualifies as a member of the professions holding an advanced degree. We withdraw this conclusion for the following reasons.

The extent of SCOPS' analysis of whether the Petitioner qualifies for second preference classification is noting that the record contains copies of a foreign diploma and an academic evaluation report that deems the foreign diploma is equivalent to a U.S. bachelor's degree in civil engineering, and the conclusory statement, "Therefore, the evidence establishes that the [P]etitioner is a member of the professions holding an advanced degree." However, as noted above, an advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree, not a bachelor's degree, or a foreign equivalent, alone. 8 C.F.R. § 204.5(k)(2). Rather, 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.[2] *Id.* Because SCOPS did not address whether the Petitioner followed his foreign diploma deemed to be equivalent to a U.S. bachelor's degree with at least five years of progressive experience in the specialty, SCOPS' statement that such a degree alone qualifies the Petitioner as a member of the professions holding an advanced degree is erroneous, and we withdraw it. *See id.*

Moreover, to show that a petitioner is a professional holding an advanced degree, a Form I-140, Immigrant Petition for Alien Workers, must be accompanied by an official academic record to

[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).

[2] We note that the copy of the Petitioner's Brazilian professional registration card in the record indicates that he registered to work as a civil engineer on [redacted]/2019," which is less than five years before he filed the Form I-140, Immigrant Petition for Alien Workers, in December 2023. Moreover, even if the Petitioner could have accrued at least five years of progressive experience in the specialty, multiple documents in the record, including a U.S. Department of Labor Form ETA 750 Part B, the Petitioner's curriculum vitae, and employment confirmation letters and contracts, present ambiguous or inconsistent information about the number of simultaneous employers he had, the duties he performed, the number of hours he worked, his beginning and ending dates of employment, and the country in which he resided and worked during the period in which he claims he accrued experience in the specialty. Petitioners must resolve ambiguities and inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Without resolving these ambiguities and inconsistencies, the record does not establish whether the Petitioner followed his bachelor's degree with at least five years of progressive experience in the specialty, as required by the regulation at 8 C.F.R. § 204.5(k)(2).

establish whether the petitioner has a qualifying degree. 8 C.F.R. § 204.5(k)(3). Even if the Petitioner followed his foreign diploma with at least five years of progressive experience in the specialty, he did not submit an official academic record to establish the coursework he completed to earn that diploma, which undermines the academic evaluation's conclusion that the foreign diploma is equivalent to a U.S. bachelor's degree in civil engineering. *See id.*; *see also Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (providing that expert opinion letters are not presumptive evidence of eligibility and that we may give an opinion less weight if it is not in accord with other information in the record or if it is in any way questionable); Fed. R. Evid. 702 (providing that an expert opinion may "help the trier of fact to understand the evidence or to determine a fact in issue," not that it is evidence of fact itself). Thus, the record does not substantiate the degree program to which the Petitioner's unknown coursework may be equivalent; therefore, the record does not support the conclusion that the Petitioner's foreign diploma is equivalent to any particular U.S. degree in any specialty, at any academic level. *See* 8 C.F.R. § 204.5(k)(3); *see also* 8 C.F.R. § 103.2(b)(1) (requiring petitioners to submit all initial evidence required by applicable regulations); 8 C.F.R. § 103.2(b)(11) (providing that even a partial response to a request for evidence will be considered a request for a decision based on the record); 8 C.F.R. § 103.2(b)(16)(ii) (providing that a determination of statutory eligibility must be based only on information contained in the record of proceeding).

We need not determine whether the record otherwise qualifies the Petitioner as either a member of the professions holding an advanced degree or an individual of exceptional ability because, for the reasons discussed below, SCOPS correctly determined that he has not established the proposed endeavor has national importance, as required by the first *Dhanasar* prong, which is dispositive. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90; *see also INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). In turn, because our conclusion that the record does not establish the proposed endeavor has national importance is dispositive, we reserve our opinion regarding whether the record satisfies the second and third *Dhanasar* prongs. *See Bagamasbad*, 429 U.S. at 25; *Matter of L-A-C-*, 26 I&N Dec. at 526 n.7.

The record overall bears minimal credibility, beginning with the first section of the Form I-140, Immigrant Petition for Alien Workers, that the Petitioner submitted. In Part 1. Information About the Person or Organization Filing This Petition, of the Form I-140, the Petitioner stated that his given name is V- and that his surname is C-H-M-. However, in Part 3. Information About the Person for Who You Are Filing, of the Form I-140, the Petitioner stated that his given name is V-C-H- and that his surname is M-. A copy of the Petitioner's Brazilian passport in the record confirms that his given name is V-C-H- and his surname is M-, unlike the information he provided in Part 1. of the Form I-140. In Part 8. Statement, Contact Information, Declaration, Certification, and Signature of the Petitioner or Authorized Signatory and Signature, of the Form I-140, the Petitioner signed a sworn statement certifying under penalty of perjury that he reviewed his submission and that all documents bear information that is complete, true, and correct. Yet even the Form I-140 itself bears inconsistent information about the Petitioner's identity.

As another example of documents that reduce the record's credibility, the Petitioner also submitted multiple copies of a business plan, describing a proposed startup company titled simply '[redacted]' Beyond the purported goal to found a company called simply '[redacted]' the

business plan contains a large number of conspicuous typographical errors. For example, although the cover page of the business plan spells the Petitioner's name correctly, each of the 40 pages in the plan that follow the cover page misspell his own name at least once in large, bold, and italicized letters at the bottom margin—and often multiple additional times within the text on a given page—presenting a separate issue from the inconsistent information regarding which parts of the Petitioner's name are his given name or his surname. And again, we note that the Petitioner not only submitted a copy of his own plan to operate his own company with essentially every page misspelling his own name, he resubmitted a copy of the business plan in response to SCOPS' request for evidence (RFE) with 40 pages bearing the same typographical errors including his own name.[3]

As a further example, the Petitioner himself—not under the auspices of an attorney or other representative—submitted a brief in response to SCOPS' RFE, which misspells multiple words in his own name at least twice on each of its 27 pages at both the top and bottom margins—and again often multiple additional times within the text on a given page, presenting another iteration of the record's inconsistent information regarding the Petitioner's identity. Although the brief author merely typed, rather than signed, a name at the end of the document, that typed name in the place of a signature also misspells the Petitioner's own name.

The extent to which many material documents in the record purportedly written by the Petitioner himself—rather than by an attorney or other representative—misspell the Petitioner's own name casts substantial doubt on the reliability and sufficiency of those documents specifically and of the remainder of the evidence in general. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (providing that doubt cast on any aspect of a petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition). The extent of the untrue and incorrect information on the documents described above also casts substantial doubt on whether the Petitioner reviewed his submission and verified all documents bear information that is complete, true, and correct, as he claimed he did.

Setting aside the large number of typographical errors regarding the Petitioner's identity throughout many documents in the record, the substance of the business plan casts further doubt on the reliability and sufficiency of its financial calculations, which is material to the first *Dhanasar* prong's consideration of whether a proposed endeavor may have significant potential to employ U.S. workers or other substantial positive economic effects. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. The business plan generally states that his startup company would provide "high quality, tailored construction consulting services." The financial forecast section anticipates sales in the amount of $493,200 in the first year of operations, increasing to $1,838,584 in the fifth year of operations. However, the business plan does not elaborate on the rate(s) the Petitioner's unnamed company would charge clients for providing generalized "construction consulting services," the period—whether hourly, daily, weekly, monthly, annually, per project, etc.—during which the company would charge clients the unspecified rates, the number of clients the company anticipates serving in a given year, the number of clients the company could serve simultaneously, and other factors that could support such specific sales calculations. Rather, the financial forecast appears to be arbitrarily determined

[3] The original business plan submitted at the time the Petitioner filed the Form I-140 was dated November 2023. The copy of the business plan the Petitioner submitted in response to SCOPS' RFE was dated July 2023, earlier than the original business plan. The record does not reconcile why the Petitioner would submit a version of the business plan in response to SCOPS' RFE that is less recent than the version he submitted at the time he filed the Form I-140.

without substantiation. This is particularly significant in this case because, even with arbitrary sales estimations, the financial forecast anticipates net profit amounts of only $34,750 in the first year of operations, increasing to $90,058 in the fifth year of operations. Thus, the financial forecast anticipates less than 10%—decreasing to less than 5%—profit margin, placing the endeavor close to operational losses each year if its arbitrary sales figures are not met, which undermines the extent to which the proposed endeavor may have the potential to create positive economic effects, as claimed. The business plan's arbitrary and unsubstantiated sales estimates cast substantial doubt on the reliability and sufficiency of the financial and economic claims in the plan and throughout the remainder of the record, and on the claims in general throughout the record, whether from the Petitioner or from others. *See Matter of Ho*, 19 I&N Dec. at 591; *see also Matter of Chawathe*, 25 I&N Dec. at 376 (requiring petitioners to establish that their claims are more likely than not true).

Moving on from the various substantial general evidentiary issues throughout the record, we turn to the specific grounds for which SCOPS denied the Form I-140, and the Petitioner's appeal thereof. SCOPS acknowledged that the record contains the aforementioned business plan, including a description of the proposed endeavor and anticipated profit. However, SCOPS observed that the record does not show how the Petitioner's proposal to provide civil engineering consulting services to various clients may have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90.

On appeal, the Petitioner claims that SCOPS "rais[ed] the bar [by] applying the standard of proof of criminal cases, which is 'beyond a reasonable doubt,'" rather than the preponderance of evidence standard discussed in *Matter of Chawathe*. He also reasserts that his civil engineering consulting services company "will significantly boost the productivity of American construction companies by integrating advanced project management techniques, cutting-edge sustainable technologies, and BIM (Building Information Modeling) methodologies, thus contributing directly to the modernization and international competitiveness of the U.S. construction sector." He notes that his endeavor "aligns directly with critical national objectives as outlined by federal priorities on infrastructure investment and sustainability initiatives." He also states that his company will create 21 direct jobs and 42 indirect jobs, which "underscores the endeavor's broader economic implications."

In determining national importance under the first *Dhanasar* prong, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on "the specific endeavor that the [individual] proposes to undertake" and "we consider its potential prospective impact," looking for "broader implications." *Matter of Dhanasar*, 26 I&N Dec. at 889. *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" or those with "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Matter of Dhanasar*, 26 I&N Dec. at 889-90.

We recognize the importance of progress in science, technology, engineering, and mathematics (STEM) fields and the essential role of persons with advanced STEM degrees in fostering this progress, especially in focused critical and emerging technologies or other STEM areas important to U.S. competitiveness or national security. *See generally* 6 *USCIS Policy Manual* F.5(D)(4),

https://www.uscis.gov/policy-manual. However, as in all cases, a proposed endeavor implicating a STEM field must demonstrate not only substantial merit but also national importance, such as by having national or even global implications within a particular field, beyond merely being in a STEM field. *See generally id.*; *see also Matter of Dhanasar*, 26 I&N Dec. at 889-90. Thus, the issue is not whether the proposed endeavor may align with federal priorities as the Petitioner claims; the issue remains whether the specific endeavor the Petitioner proposes to undertake may have broader implications, such as national or even global implications within the field of civil engineering or any other field. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90.

SCOPS' decision does not support the Petitioner's claim that it "rais[ed] the bar [by] applying the standard of proof of criminal cases, which is 'beyond a reasonable doubt.'" The Petitioner does not clarify what aspect of the decision he believes SCOPS applied a heightened standard, beyond generally alleging error. The decision does not contain the words "beyond," "reasonable," or "doubt" in any context, nor does it bear an implication that it applied such a standard. On the contrary, in three separate sections, SCOPS' decision explained that it employed a "preponderance of the evidence" standard, as is appropriate. Particularly given the minimal degree of reliability and sufficiency to which the entire record is reduced for the reasons explained above, SCOPS soundly determined that the record did not establish that the Petitioner's claims are more likely than not true under the preponderance of evidence standard. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner's proposal to operate a company in [redacted] Massachusetts, that provides "tailored construction consulting services" may benefit himself as the company's director and the unspecified—but apparently small—number of clients and business partners involved in these tailored services. For example, the endeavor may boost the productivity of the company's clients, as claimed. However, the record does not demonstrate how his company's activities may have national or even global implications within the field of civil engineering or any other field, such as those resulting from certain improved manufacturing processes or medical advances, beyond boosting the company's particular clients' productivity, if true. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. Even if the business plan's claims could be deemed reliable and sufficient, which they cannot, the record does not substantiate how employing 21 workers with certain job titles and duties addressed in the business plan may be significant in [redacted] Massachusetts, in order to demonstrate whether this poses a significant potential to employ U.S. workers. *See id.* Relatedly, although the Petitioner asserts his endeavor will create 42 indirect jobs, the record does not establish what these jobs may be and where they would be located in order to determine whether they present significant potential to employ U.S. workers in any particular area. *See id.* As noted above, the financial assertions in the record in general and in the business plan specifically bear minimal reliability and sufficiency and, thus, they provide little probative value for determining the endeavor's potential for economic effects, whether substantial and positive or otherwise. *See id.*; *see also Matter of Ho*, 19 I&N Dec. at 591.

In summation, considering the record in its entirety, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established eligibility 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.