U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42214583

Date: APR. 22, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a legal consultant in alternative dispute resolution, 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 record did not establish that 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 he or she is 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, he or she must then demonstrate that he or she merits 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 his or her proposed endeavor; and

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

SCOPS observed that the Petitioner was eligible for EB-2 classification as an individual who is a member of the professions holding an advanced degree. But SCOPS ultimately concluded that the Petitioner's substantially meritorious proposed endeavor did not rise to a level of national importance as required by the first prong of *Dhanasar*. SCOPS also determined that the Petitioner was not well positioned to advance his proposed endeavor. And SCOPS concluded that on balance of applicable factors, a waiver of the requirement of a job offer, and thus a labor certification, would not be beneficial to the national interest.

SCOPS concluded that the Petitioner did not demonstrate his proposed endeavor was of national importance because the Petitioner did not demonstrate the broader implications of the proposed endeavor or its potential positive economic effects. For the below reasons, we agree.

Although the evidentiary standard in immigration proceedings is the lowest preponderance of the evidence standard, the burden is on the Petitioner alone to provide material, relevant, and probative evidence to meet that standard. Section 291 of the Act, 8 U.S.C. § 1361. A petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n.3 (BIA 1998); *see also* the definition of burden of proof from *Black's Law Dictionary* (11th ed. 2019) (reflecting the burden of proof includes both the burden of production and the burden of persuasion). First, a petitioner must satisfy the burden of production. As the term suggests, this burden requires a filing party to produce evidence in the form of documents, testimony, etc. that adheres to the governing statutory, regulatory, and policy provisions sufficient to have the issue decided on the merits.

The infirmity in the Petitioner's description of his endeavor is patent upon examination into the evidence and assertions he introduced into the record. The Petitioner's evidence and contentions do not help him to carry his burden of production and persuasion because it does not relate to the proposed endeavor's national importance under the first prong of the *Dhanasar* framework.

In determining national importance under *Dhanasar*, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have a national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated 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. What is critical in determining the national importance under *Dhanasar* is whether the proposed endeavor has a potential prospective impact with broader implications which rise to the level

of national importance. So, it is not what duties or what occupation the noncitizen will fill or perform but his or her actual plan with his or her occupation and duties that is examined.

As stated above, the Petitioner's proposed endeavor is to continue his career as a legal consultant in alternative dispute resolution in the United States. Specifically, he intended to establish "a legal consultancy focused on [alternative dispute resolution] and public bond investment…to create jobs, reduce the burden on the judicial system, foster efficient and cost-effective dispute resolution, and promote sustainable business practices." The Petitioner contends that alternative dispute resolution enables "U.S. businesses to navigate complex international legal frameworks with greater ease, enhancing their ability to compete globally." The Petitioner also avers that his endeavor "aligns with key U.S. governmental priorities" and will attract "foreign investment and facilitat[e] cross border legal transaction" in line with U.S. trade and economic policies, as well as act as a "direct catalyst for economic growth" demonstrated by job creation. The Petitioner also expects his endeavor to have a societal impact because alternative dispute resolution is a "less adversarial, more collaborative alternative to traditional litigation."

The Petitioner submitted his professional plan and statement, and industry reports and articles to demonstrate the substantial merit and national importance of his endeavor. In response to the request for evidence (RFE), the Petitioner submitted several published decision of the Supreme Court of the United States, a copy of the fiscal year 2024 Annual Performance Report of the United States Equal Employment Opportunity Commission, copies of United Nations fact sheets and World Investment Reports, copy of the U.S. Department of State's 2024 Investment Climate Statements for Brazil, and a copy of JURISMED law firm PowerPoint presentation titled "ADR in Secured Transaction: Third Party Rights."[2] The Petitioner also submitted documentation describing the use and benefits of alternative dispute resolution in family, matrimonial, and child custody matters.

In the first instance, the Petitioner stresses that it is his *execution* of the proposed endeavor that will elevate it to a level of national importance due to his continuous work in the field over 18 years. The Petitioner stated that his past work experience and achievements render his work in the proposed endeavor likely to achieve results that will benefit the United States national interest. But the Petitioner's claims are not persuasive. The Petitioner's argument spotlights a fundamental misunderstanding of the *Dhanasar* framework's first prong. The first prong focuses on the proposed endeavor; not on the Petitioner's execution of that proposed endeavor. The *Dhanasar* framework is consequently unconcerned with the success of the proposed endeavor or the Petitioner's track record in his field of endeavor previously. The Petitioner's contentions about his successful past performance in the field of endeavor he proposes, as well as evidence and information of his achievements and recognition, would better serve a demonstration of eligibility under the *Dhanasar* framework's second prong. So, the Petitioner's contentions about his successful career-to-date, as well as evidence and information of his achievements and recognition such that they are, are irrelevant to an examination of his eligibility under the first prong of the *Dhanasar* analytical framework.

And SCOPS concluded that the Petitioner did not demonstrate his proposed endeavor was of national importance because the Petitioner did not demonstrate that it has national or even global implications in its field, the broader implications of the proposed endeavor, or its potential positive economic

[2] While we may not discuss every document submitted, we have reviewed and considered each one.

effects. It is not evident from the Petitioner's professional plan how his proposed endeavor rises to a level of national importance. Whilst the professional plan describes the scope of the services the Petitioner's endeavor intends to perform, it does not sufficiently show how those services extend beyond the companies the endeavor intends to work with or be hired by. Nor does the professional plan identify the broader implications of the proposed endeavor. For example, the Petitioner identified an increase of foreign direct investment job creation as benefits emanating from his proposed endeavor. But it is not evident how these benefits would broadly implicate matters rising to a level of national importance. Whilst the Petitioner identified increasing foreign direct investment, he did not specify the magnitude of increase he expected to realize and how the increase would elevate his endeavor to one of national importance. An evaluation of the broader implications of the Petitioner's proposed endeavor is impeded when it is not readily apparent how much foreign direct investment would be generated from the endeavor and how that relates to the United States interest in increasing or attracting foreign direct investment. Moreover, it is not readily evident in the record how attracting foreign direct investment through the Petitioner's endeavor broadly implicates matters rising to a level of national importance. As stated earlier, the Petitioner offered sufficient evidence to support the merit of increasing foreign direct investment in the United States and offered the same evidence to support the national importance of his proposed endeavor. But not every endeavor that purports to increase foreign direct investment in the United States is nationally important. We said in *Dhanasar* that we focus on "the specific endeavor that the foreign national proposed to undertake" and "look for broader implications" to determine the proposed endeavor's national importance. *See Dhanasar*, 26 I&N Dec. at 889. The evidence in the record did not sufficiently describe the magnitude of foreign direct investment the Petitioner's endeavor proposed to generate. The magnitude of the foreign direct investment the Petitioner expected his proposed endeavor to generate is a key consideration to evaluate whether the potential prospective impact of the Petitioner's proposed endeavor would rise to a level of national importance either through its broader implications or positive economic impact. The record does not contain evidence which would sufficiently describe the potential prospective impact of the Petitioner's proposed endeavor has broader implications or positive economic impact rising to a level of national importance.

We said 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. The Petitioner generally mentions the proposed endeavor's capacity for significant potential to employ US workers. But the Petitioner's professional plan indicates a nascent plan to employ individuals. The record does not support implications rising to a level of national importance, either nationally or more broadly to the field of the proposed endeavor, from a nascent plan to employ individuals in some employment capacity. Moreover, the Petitioner's professional plan does not indicate or identify any economically depressed area within which his proposed endeavor would create a job. So, it is not entirely evident how the Petitioner's proposed endeavor positively affects economic considerations.

The record also contains numerous documents in the form of articles from media and government generally discussing alternative dispute resolution and its benefits. But these relate more to the substantiality of the proposed endeavor's merit than its national importance. In determining national importance, the focus is not on the importance of the industry in which the petitioner will work or even his or her past success. The focus is on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec.at 889.

In *Dhanasar* we said that "we look for broader implications." And it is here that the Petitioner's proposed endeavor's deficiencies are revealed. The record does not adequately describe how the Petitioner's alternative dispute resolution services would broadly implicate his field of endeavor. That is not to say that the broader implications of the Petitioner's alternative dispute resolution services are evaluated from a geographic perspective. Broader implications are not necessarily geographically evaluated; implications within a field which demonstrate a national or even international influence of broader scale can rise to a level of national importance. But the record as it is presently constituted does not sufficiently describe how the alternative dispute resolution services the Petitioner will provide will influence the resolution of legal disputes beyond the entities and individuals that may engage the services of the Petitioner's proposed endeavor.

And whilst the Petitioner anticipates increasing gross income, a hiring spree increasing head count, and increasing expenditures on salary as outlined in his personal statement, it is not clear from the record how this job creation for the proposed endeavor itself would have a substantial prospective positive economic effect commensurate with national importance. The Petitioner's aspirations did not demonstrate the national importance of the endeavor because they, whether realized or not, would not extend beyond the endeavor itself to have an impact on a level of national importance. The record also did not contain sufficient probative, material, or relevant evidence showing how the endeavor's hiring plan would influence the area's unemployment rate or how the endeavor's operations and revenue rose to a level of national importance. The record does not provide context as to the significance of potential for job creation through the proposed endeavor rising to a level of national importance or if the job creation will be in an area or areas which have traditionally been economically depressed.

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. Because this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the remaining arguments concerning eligibility under the remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 1976) ('courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-I*, 26 I&N Dec. 216, 526n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise eligible). So, we conclude the Petitioner has not established that he is eligible for or otherwise merits a national interest waiver of the job offer requirement, and thus of a labor certification. Accordingly, the appeal will be dismissed.

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.