U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34845078

Date: APR. 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an attorney, 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).

SCOPS denied the petition, and dismissed the subsequent motion to reopen, concluding that though the Petitioner qualified for classification as a member of the professions holding an advanced degree, he had not established 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 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. While neither the statute nor the pertinent regulations define the term "national interest," *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

[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 concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. 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.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *See 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

According to the Petitioner's statement provided with the initial filing, he intends to advance and foster "smooth commercial and international trade relationships through robust and seamless dispute resolution mechanisms, with the goal of promoting continued commercial relationships between national and multinational corporations as well as international trade and countries' economic and national security interests." He notes that his endeavor is related to "the application of international laws to dispute settlement and investment arbitration mechanisms such as negotiation [and] mediation, among others as well as how inter-State disputes are handled between States and with nationals of other States, seeking to protect their own interests at the global stage." In support of his eligibility, the Petitioner submitted recommendation letters, international and humanitarian law articles and reports, and documents related to his education and professional experience.

SCOPS determined, in part, that the Petitioner's initial filing did not demonstrate the proposed endeavor's national importance and issued a request for evidence. In response, the Petitioner submitted a professional plan, a business plan, expert opinion letters, additional reports and articles related to the international law field, and documentation regarding his salary, education, and work history. His professional plan indicates that his proposed endeavor "is to work in the United States as a dual-licensed attorney in the field of international law. [He] will apply more than 6 years of accumulated experience to provide services in the legal and investment consulting industry, involving areas such as foreign direct investment, mining, copper, lithium, wine, fruits and vegetable industries, human and LGBTI rights violations and international humanitarian law, inter-state dispute management, [and] armed conflict and warfare conflict conciliation and resolution, where [he] will provide legal advice to achieve the best outcome to [his] client's needs in any of these fields relating to international disputes and international law as a whole." His business plan discusses a proposed [redacted]" that "will be an innovative platform designed to [redacted] community in the United States." The Petitioner will serve as the executive director and the "organization will deliver a wide range of services, with a central focus on legal assistance, educational resources, and advocacy initiatives."

In denying the petition, SCOPS concluded that though the Petitioner's proposed endeavor had substantial merit, the record contained insufficient evidence to demonstrate that the prospective impact of his endeavor rises to the level of national importance. SCOPS found that while the Petitioner may provide useful services, the documentation failed to establish that his specific endeavor has national or global implications in the field of international law, will offer substantial positive economic impacts, or broadly enhance individual and societal welfare as contemplated by *Dhanasar*. In dismissing the Petitioner's motion to reopen, SCOPS determined that the newly submitted evidence did not overcome the deficiencies noted in the denial and did not establish eligibility for a national interest waiver.

On appeal, the Petitioner claims that SCOPS failed to consider the submitted evidence addressing the national importance requirement, based its decision on erroneous statements of facts, and reached an erroneous conclusion of law. He asserts that the record, including the evidence submitted with the motion to reopen, establishes the national importance of his endeavor. Upon review, SCOPS properly weighed the evidence to evaluate whether the Petitioner had demonstrated, by a preponderance of the evidence, that he meets the first prong of the *Dhanasar* framework. In determining national importance, we look to evidence documenting the "potential prospective impact" of a petitioner's work, rather than the importance of the field, industry, or profession in which the individual will work.

Here, the Petitioner contends that his endeavor has national and global implications within the field of international and humanitarian law and the potential to employ several U.S. workers and improve the social welfare of certain minorities. He asserts that the submitted documents, such as recommendation and expert opinion letters, his professional and business plans, and U.S. government initiatives, attest to the national importance of his proposed endeavor. He further argues that providing legal services to solve international disputes arising out of foreign direct investment, international trade, and double tax arrangements has national importance and he refers to the submitted articles, executive orders, and related materials. However, the evidence does not demonstrate that the potential prospective impact of his specific proposed endeavor of providing legal services meets the national importance requirement.

We noted in *Dhanasar* that "we look for broader implications" of the proposed endeavor and that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects" may well be understood to have national importance. *Id.* at 890. Although the Petitioner discusses the value and importance of legal services and its impact on the U.S. economy and society, *Dhanasar* requires us to focus on the "the specific endeavor that the foreign national proposes to undertake," not the importance of the field, industry, or profession. *Id.* at 889. The Petitioner asserts that the additional documents submitted with the motion to reopen, such as the revised professional and business plans, updated expert opinion letters, and letter of interest from [redacted], further demonstrate the national importance of his proposed endeavor. Upon review, the record in its totality does not show through supporting documentation how the Petitioner's specific services would sufficiently advance the field more broadly and extend beyond his prospective clients to impact the field or the U.S. economy at a level commensurate with national importance.

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not demonstrated eligibility for a national interest waiver, as a matter of discretion. Further analysis of his eligibility outlined in *Dhanasar*, therefore, would serve no meaningful purpose. *See*

INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make 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 alternate issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.