U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37721184

Date: APR. 25, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a social and community service manager and entrepreneur, 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).

Service Center Operations (SCOPS) denied the Petitioner's Form I-140, Immigrant Petition for Alien Workers, concluding that the Petitioner did not establish her underlying eligibility for EB-2 classification as an advanced degree professional or an individual of exceptional ability, and furthermore that she did not establish she merited a national interest waiver. 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;

[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).

- 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

SCOPS concluded the Petitioner did not establish her underlying eligibility for EB-2 classification as an advanced degree professional or an individual of exceptional ability, and furthermore that she did not establish any of the three prongs under the *Dhanasar* analytical framework, specifically that her proposed endeavor was nationally important; that she was well positioned to advance the proposed endeavor; and that on balance, waiving the job offer requirement would benefit the United States. *See Dhanasar*, 26 I&N Dec. at 889. On appeal, the Petitioner claims SCOPS erred in its conclusion and that the record establishes her underlying eligibility for EB-2 classification, that she meets all three of the *Dhanasar* prongs, and that she merits a national interest waiver.

A. Substantial Merit and National Importance

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 first prong of the *Dhanasar* analytical framework, regarding substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. 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, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we consider the proposed endeavor's "potential prospective impact," and "look for broader implications." *Id.* In *Dhanasar*, we noted that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* Further, "[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 support of her Form I-140, the Petitioner provided, in part, personal statements and a business plan wherein she explained her proposed endeavor is to leverage her extensive background in social work and community service management to significantly contribute to the welfare and socioeconomic landscape of the United States including through the creation of a company providing urgent support services to vulnerable populations. Specific services provided by the company will include domestic violence and abuse prevention; integration and support services for immigrants; community development projects; advocacy for vulnerable populations; mental health and substance abuse programs; youth engagement and development; public policy consultation; disaster and crisis response management; education and training programs; and public health initiatives. She states the company will be established in [redacted], Massachusetts with plans to expand in Massachusetts and later to other

states. She claims she will employ six employees, including herself, in the first year of operation, and 21 employees by year five of operations.

The Petitioner also submitted eight letters of recommendation from former coworkers and professional acquaintances that generally speak to her character and professional experience, as well as articles relating to social work and community service management, domestic violence, immigration, youth unemployment, healthcare, and social assistance.

Additionally, the Petitioner provided an expert-opinion letter that initially describes the Petitioner's background and summarizes the content of the aforementioned letters of recommendation, personal statements, and business plan. The author claims generally that the Petitioner's company is projected to have a significant economic impact in the United States as it "could contribute to job creation" and is "likely to attract investments." The author further claims that the endeavor has the "potential" to improve societal welfare by "fill[ing] gaps in the current social safety net," and has national and potentially global implications as the initiative "could serve as a model for innovative approaches to social work," "could influence national policy," and "could be adapted and applied in other countries." The author also claims the endeavor directly impacts issues that are the focus of national initiatives.

We acknowledge the evidence of the Petitioner's education and experience in the field of social work and community service management, including the information contained in her resume and letters of recommendation. This evidence, however, relates to whether the Petitioner is well positioned to advance her proposed endeavor rather than whether the proposed endeavor is nationally important. Similarly, we note the articles she provided that discuss the field in which she intends to work and the significance of issues such as domestic violence, immigration, and healthcare in the United States. Our focus in assessing national importance, however, is on the specific endeavor that the Petitioner proposes to undertake and its prospective impact rather than the importance of the profession or general nature of the issues the individual will address through her endeavor. *See id.* at 889.

Here, the Petitioner's general assertions in her statements and business plan, as well as those made in the expert opinion letter, regarding the contributions her proposed endeavor may make to her company's target audiences lack sufficient probative detail and are not corroborated in the record to establish the services provided through her company would extend beyond the company's interests and specific clientele in a manner that has national or global impact in the field of social work and community service management or in the specific areas she proposes to offer services. Similarly, the letters of recommendation and articles submitted by the Petitioner do not address the specific proposed endeavor or the services the Petitioner would provide through her company as part of her endeavor, nor do they discuss with any specificity the impact or broader implications of those plans to corroborate the claimed impact she asserts would result from the endeavor.

Additionally, the Petitioner's and expert's general assertions regarding the contributions the proposed endeavor will make to the national economy, and the unsupported projections in the business plan, are insufficient to demonstrate the proposed endeavor is nationally important. Even if we were to conclude that the financial projections in the business plan regarding revenue growth and job creation are well founded, which we do not, the Petitioner does not establish that the revenue or number of jobs created by her proposed endeavor would result in *substantial* positive economic effects or have significant potential to employ U.S. workers, particularly in an economically depressed area. *Id.* at

890. Accordingly, we find the Petitioner has not established that her proposed endeavor is nationally important.

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, requiring that she demonstrate her proposed endeavor is nationally important. She therefore has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

As noted above, SCOPS concluded that the Petitioner did not establish her underlying eligibility for EB-2 classification as an advanced degree professional or as an individual of exceptional ability. While the Petitioner contests this conclusion on appeal, because she is ineligible for a national interest waiver, we will reserve the issue of whether she qualifies for EB-2 classification as an advanced degree professional or an individual of exceptional ability. *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). Similarly, while the Petitioner contests SCOPS' conclusion that she did not establish that she was well positioned to advance her proposed endeavor, or that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification, as are required under the *Dhanasar* analytical framework, since our determination that the Petitioner did not establish that her proposed endeavor is nationally important is dispositive of his appeal, we also decline to reach and hereby reserve the appellate arguments on these issues. *See id.*

ORDER: The appeal is dismissed.