In Re: 38158636 Date: APRIL 29, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a swimming pool company executive, 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 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 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;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

[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).

II. ANALYSIS

SCOPS determined the Petitioner qualified for EB-2 classification as an advanced degree professional because she submitted evidence that she holds the foreign equivalent of a U.S. Master of Science degree in linguistic sciences. We agree. The only issue on appeal is whether she qualifies for and merits a waiver of the job offer requirement in the national interest.

In her initial statement, the Petitioner described her proposed endeavor as enhancing "the nation's aquatic sports facilities and promot[ing] public safety and youth development through sports." The Petitioner indicated she would pursue her proposed endeavor through her position as Director of Operations and Finance of [redacted].

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. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* SCOPS determined the Petitioner's proposed endeavor has substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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 other broader implications indicating national importance. *Id.* at 889-90. SCOPS determined the Petitioner did not establish that her work would extend beyond her company and its clients to impact her field more broadly at a level commensurate with national importance. On appeal, the Petitioner asserts SCOPS erred and the evidence shows her work has impacted her field more broadly.

The Petitioner claims she has been "instrumental to the most recent and important [redacted] pool infrastructure developments in the United States" and cites support letters as evidence of her contributions. The Petitioner submitted a letter from T-T-, Chairman of [redacted] who describes the Petitioner as "a one of a kind professional in the [redacted] pool manufacturing and installation industry." T-T- states the Petitioner has been "critically important, in her role as Director of Operations and Finance, to the successful installation and operation of the two most recent [redacted] T-T- adds the Petitioner has been involved in the installation of [redacted] facility pool installations at several [redacted] and other institutions. M-B-, International Business Director of [redacted], similarly praises the Petitioner's work for his company and adds that she is working on the installation of [redacted] to be used at the [redacted]. D-R-, National Director of the [redacted] commends the Petitioner's past work with the [redacted] and states the Petitioner played a "pivotal role in advocating for the benefits of high-quality aquatic facilities for public use." D-D- praises the Petitioner's work on the installation of [redacted] for a [redacted] in California. E-N- commends the Petitioner's work on the installation of pools for the [redacted].

In response to SCOPS' request for evidence, the Petitioner submitted additional support letters. J-I-, Chief Technical Officer of [redacted], M-D-, and B-S- praise the Petitioner's work on the installation of pools for the [redacted]. M-F- commends the Petitioner's work on the installation of pools for the [redacted]. S-F-, Chief Operating Officer of [redacted], praises the Petitioner's "robust project management skills" and "expertise in large-scale logistics." While the authors of these letters attest to the Petitioner's skills and past accomplishments, they do not discuss her specific proposed endeavor or establish its potential prospective impact. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it relates to U.S. strategic interests). The letters also do not discuss any particular aspect of the Petitioner's work or proposed endeavor that has national or global implications in her field. *See id.* at 889. (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

The Petitioner also claimed that her proposed endeavor would have substantial positive economic effects. She submitted articles stating the projected economic impact of the [redacted] was $100 million. The record does not establish that this impact was attributable to the Petitioner's individual contributions to the installation of pools for the [redacted]. The articles also do not indicate that the Petitioner's proposed endeavor would have substantial positive economic effects. *See id.* at 890 (discussing substantial positive economic effects as indicative of national importance).

The Petitioner submitted articles on the [redacted], the swimming venue for the [redacted], [redacted] installation of two [redacted] for the [redacted], [redacted]. None of these articles discuss the Petitioner's proposed endeavor. Our assessment of national importance does not focus on the importance of a field or related issues in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id. Cf. id.* at 892 (citing media articles and other evidence documenting Congressional interest in Dhanasar's research). The articles also do not indicate that the Petitioner's past work or proposed endeavor has extended or would extend beyond the clients of [redacted] to impact her field more broadly. *See id.* at 889 (explaining "we look for broader implications").

In sum, the record does not establish that the Petitioner's proposed endeavor has national importance as it does not have substantial positive economic effects, national or global implications within her field, or other broader implications indicating national importance.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of her specific proposed endeavor and does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of her eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach").

III. CONCLUSION

The Petitioner has not established the national importance of her proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, the Petitioner has not demonstrated that she is eligible for and merits a waiver of the job offer requirement in the national interest.

ORDER: The appeal is dismissed.