U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37869305

Date: APR. 29, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a chief executive officer of a healthcare consulting firm, seeks classification as a member of the professions holding an advanced degree or of exceptional ability, Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this employment based second preference (EB-2) classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

Service Center Operations (SCOPS) denied the petition, concluding 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

Whilst neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that USCIS may as a matter of discretion

grant a national interest waiver of the job offer, and thus of the labor certification, to a petitioner classified in the EB-2 category if he or she demonstrates that (1) the noncitizen's proposed endeavor has both substantial merit and national importance, (2) the noncitizen is well positioned to advance the proposed endeavor, and (3) 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.

The first prong, substantial merit and national importance, focuses on the specific endeavor the alien 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

The second prong shifts the focus from the proposed endeavor to the alien. To determine whether the alien is well positioned to advance the proposed endeavor, we consider factors including but not limited to the individual's education, skills, knowledge, and record of success in related or similar efforts. A model or plan for future activities, progress towards achieving the proposed endeavor, and the interest of potential customers, users, investors, or other relevant entities or individuals are also key considerations.

The third prong requires the petitioner to demonstrate that, on balance of applicable factors, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. USCIS may evaluate factors such as whether, in light of the nature of the alien's qualification or the proposed endeavor, it would be impractical either for the alien to secure a job offer or for the petition to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the alien's contributions; and whether the national interest in the alien's contributions is sufficiently urgent to warrant forgoing the labor certification process. Each of the factors considered must, taken together, indicate 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.

II. ANALYSIS

SCOPS observed 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 the Petitioner's substantially meritorious[1] 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 her 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.

[1] The Petitioner submitted numerous articles, web pages, and reports from non-profit research organizations and executive level agencies related to the importance of addressing healthcare access, especially in rural areas in the United States. This evidence supported the overall merit of the Petitioner's proposed field of endeavor. So, SCOPS correctly concluded the Petitioner's proposed endeavor had substantial merit. But the same evidence does not adequately describe how the Petitioner's specific proposed endeavor demonstrates it has national or even global implications in the particular field, would broadly implicate matters rising to a level of national importance in the field, or confers positive economic effects as we will discuss below.

On appeal, the Petitioner contends SCOPS' decision was based on an erroneous conclusion of law and facts. Specifically, the Petitioner contends SCOPS applied a higher standard of proof than the preponderance of the evidence standard and asserts SCOPS did not consider the totality of the evidence the Petitioner submitted. 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); *also see* 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 Petitioner submitted her curriculum vitae, several recommendation letters, copies of her educational credentials, several certificates of attendance or participation in seminars or continuing education courses, articles and other reports, expert opinion letter, and professional plan.[2] The Petitioner states on appeal that the evidence she submitted in the record prior to and at appeal demonstrated that the Petitioner meets all three prongs under the *Dhanasar* framework and merits a discretionary waiver of the job offer, and thus the labor certification, in the national interest. But as explained below, the Petitioner's evidence and assertions do not help her carry her burden of production and persuasion because it does not sufficiently relate to the proposed endeavor's national importance under the first prong of the *Dhanasar* framework.

A. The Proposed Endeavor

The Petitioner initially expressed that her endeavor "provides consulting and instruction coordination for community health programs and development, training, and teaching activities in preventive health practices." This would include "training military veterans to assist in areas with shortages of healthcare professionals" to focus on "enhancing healthcare services for elderly, homeless, and economically deprived populations" by "leveraging the skills of military veterans." The endeavor also expressed "aims to improve health outcomes in underserved rural U.S. regions by adopting best practices" and "[l]everaging the candidate's expertise in health services, military services, and preventive health practices" to "conduct rural health assessments" and "offer tailored training programs, launch community awareness campaigns, and foster partnerships with health institutions" in order to "address health disparities in rural areas, provide a model for enhancing healthcare delivery and promoting preventive health practices across rural America." In response to SCOPS' request for evidence (RFE), the Petitioner elaborated that she would establish a "community health consulting and services" company called [redacted] and serve as its chief executive officer in order to accomplish the objectives of the endeavor she had initially expressed at the time of filing of the petition.

The infirmity in the Petitioner's description of her endeavor is patent upon examination into the evidence she introduced into the record. The Petitioner's evidence does not help her carry her burden of production and persuasion because it does not sufficiently support the proposed endeavor's national importance under the first prong of the *Dhanasar* framework.

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

B. National Importance

SCOPS concluded that the Petitioner's endeavor lacked national importance because she did not demonstrate that the endeavor has national or even global implications in its field, broader implications emanating from the proposed endeavor, or its potential positive economic effects. For the following reasons, we agree.[3]

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. So, it is not what duties or what occupation the alien will fill or perform but his or her actual plan with the occupation and duties that are examined.

The Petitioner showcased her endeavor's potential global or national impact, any broader implications, and any positive economic effects stem from *her specific individual execution* of her proposed endeavor based on her past work in the field. And the corpus of the evidence the Petitioner submitted into the record does not stray far from this core assertion. But the Petitioner's assertion spotlighted 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 her field of endeavor previously.

For example, the Petitioner submitted several letters of recommendation into the record. But the letters do not refer to the Petitioner's proposed endeavor. Instead, they describe the Petitioner's competent acquittal of her assigned job duties or otherwise describe the work she did previously. The Petitioner's past performance of the duties she intended to perform as part of her proposed endeavor does not support that endeavor's national importance. It is not sufficiently evident how the Petitioner's past performance of her duties has global or national implications, broader implications, or positive economic effects. In the same vein, the Petitioner's educational credentials and professional certificates earned from participation in seminars or continuing professional education exercises are not sufficient to demonstrate the national importance of her proposed endeavor.[4]

---

[3] SCOPS also denied the petition because the Petitioner did not submit the employee-specific portions of a permanent labor certification via a properly completed Form ETA-750B or ETA 9089 in duplicate at the time of filing the petition. *See* 8 C.F.R. § 204.5(k)(4)(ii). We note the Petitioner, despite adequate notice in the decision, did not submit the employee-specific portions of a permanent labor certification via a properly completed Form ETA-750B or ETA 9089 in duplicate with this appeal.

[4] The Petitioner's contentions about her successful past performance in the field of endeavor she proposes, as well as evidence and information of her achievements and recognition, would better serve a demonstration of eligibility under the *Dhanasar* framework's second prong.

The Petitioner asserts on appeal that her endeavor has global or national implications because it will be "addressing the complexities of rural health care challenges, from understanding diverse healthcare needs to implementing effective strategic plans…" She contends that her endeavor will also create jobs and economic growth, reduce healthcare costs, improve healthcare outcomes for veterans, and enhance the development of the healthcare workforce.

It is not evident from the Petitioner's professional plan how her proposed endeavor rises to a level of national importance. The Petitioner's professional plan lists "community health program consulting and development," "instructional coordination," "training and teaching in preventive health practice," and "rural health assessments" as the services her endeavor will provide. Whilst the professional plan describes the scope of these services that it intends to perform, it does not sufficiently show how those services extend beyond the "potential clients" it identifies, such as "healthcare professionals, and community organizations" that it seeks out or that seek the Petitioner out. Or in other words, it is not sufficiently clear how the Petitioner's provision of healthcare consulting services would have global or even national implications to the field beyond the "healthcare professionals, and community organizations" she intends to target. On appeal, the Petitioner asserts that her endeavor has "far-reaching consequences that extend well beyond local impacts." She states that her endeavor addresses "national critical needs" because it targets a "recognized national need of (sic) improve healthcare systems." Essentially, the Petitioner is asserting that her endeavor is nationally important because it is related to matters of national concern, like the provision of healthcare in rural areas. Whilst SCOPS acknowledge the field of the Petitioner's endeavor when it concluded that it fell within an area of substantial merit, 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 record does not contain sufficient material, relevant, or probative evidence to demonstrate that the Petitioner's specific endeavor will more likely than not have national, or even global, implications to the field.

Nor does the professional plan identify the broader implications of the proposed endeavor. For example, the Petitioner states that "by enhancing operational efficiency, improving healthcare accessibly, and promoting sustainable health practices across rural regions, [the Petitioner's] work will enhance the economic and health infrastructure of the United States." But, the Petitioner has not presented material, relevant, or probative evidence into the record demonstrating how "enhancing operational efficiency, improving healthcare accessibly, and promoting sustainable health practices across rural regions, [the Petitioner's] work will enhance the economic and health infrastructure of the United States" for the "healthcare professional and community organizations" availing themselves of her services would broadly implicate matters of national importance beyond the immediate benefit those entities would experience. Or in other words, the Petitioner's endeavor has not sufficiently established that its activities in achieving objectives for the "healthcare professionals and community organizations" that have engaged her services broadly implicate matters 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's appeal 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 20 employees within three

years of establishment. The record does not support the Petitioner's claim of implications rising to a level of national importance, either nationally or more broadly to the field of the proposed endeavor, from a plan to employ 20 individuals to work for the Petitioner's entity. Moreover, the Petitioner's professional plan does not indicate or identify any economically depressed area within which her proposed endeavor would create these jobs. Moreover, the Petitioner makes general assertions that "every dollar spent on healthcare creates $1.25 in economic output." But the Petitioner has not identified how many dollars are being spent on healthcare by and through her specific endeavor so that the economic output can be quantified, nor has the Petitioner provided a frame of reference to consider what economic output would be potentially nationally important. So, it is not entirely evident how the Petitioner's proposed endeavor positively affects economic considerations.

USCIS may, in its discretion, use as advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, the submission of letters or opinion statements from experts supporting the petition is not presumptive evidence of eligibility. *Id.* The Petitioner submitted an expert opinion statement authored by Dr. [redacted] professor, [redacted] New York. But this opinion statement does not illustrate how the Petitioner's proposed endeavor rises to a level impacting national importance. The author's opinion mainly focuses only on the Petitioner's ability and achievement when rendering the opinion. As we stated previously, the first prong focuses on the proposed endeavor. So, a petitioner's ability and achievement are not relevant considerations to evaluate the national importance of the proposed endeavor.

The author also mainly summarizes the contents of the Petitioner's business plan and makes general pronouncements about the importance of the "industry" in "addressing disparities in access to healthcare, particularly in underserved and rural populations." But the author does not adequately demonstrate how the Petitioner's specific endeavor has national, or even global, implications within the field or broader implications from the endeavor that rise to a level of national importance. Or in other words, the author does not convincingly express how the endeavor's "provision of preventive health education and community health program development," "workforce training, particularly for military veterans" to the entities that avail themselves of her services extends forth from that in a manner that has national, or global, implications to the field or broader implications stemming forth in a manner rising to a level of national importance.

In sum, the author does not venture further from a description of the Petitioner's ability and achievement to evaluate the Petitioner's specific endeavor and how it can have a prospective positive impact nationally or globally or from the broader implications of its specific contributions to the information technology field. Nor does the author sufficiently describe any positive economic impacts. Or in other words, the author does not convincingly articulate the potential prospective impact of the Petitioner's endeavor so that a meaningful evaluation of the proposed endeavor's potential prospective impact can be made to determine if it rises to a level of national importance.

Overall, the Petitioner's stated services of "community health program consulting and development," "instructional coordination," "training and teaching in preventive health practice," and "rural health assessments" mainly confer a benefit on a narrow segment of entities that seek out those services. This is akin to how the benefit of someone's teaching is generally only directly beneficial to the students being taught and not the wider population. In *Dhanasar* we discussed how teaching would not impact

the field of education broadly in a manner which rises to national importance. *Dhanasar* at 893. By extension activities which only benefit a small subset of individuals, like the Petitioner's proposed healthcare consulting endeavor, would not rise to a level of national importance. The Petitioner has not provided any material, probative, or relevant evidence of national or global implications to the provision of healthcare in rural areas separate and apart from the benefits that could be realized by the entities that may engage the Petitioner's services.

The record does not contain relevant, probative, or material evidence establishing the Petitioner's proposed endeavor has potential prospective impact either through national or even global implications, its broader implications to its field, or its positive economic effects. So, we conclude that the Petitioner has not established that her proposed endeavor is of national importance.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she does not merit a favorable exercise of discretion to waive the requirement of a job offer, and therefore a labor certification. And we reserve the issue of whether the Petitioner demonstrated eligibility under the remaining prongs of the *Dhanasar* analytical framework. 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-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). So, we dismiss the Petitioner's appeal.

ORDER: The appeal is dismissed.