U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38246070

Date: APR. 30, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a software engineer, 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, concluding that while the Petitioner is an advanced degree professional, he did not establish eligibility for 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.

On appeal, the Petitioner submits a brief. He asserts that he submitted relevant, probative, and credible evidence which established eligibility for a national interest waiver. The Petitioner describes the proposed endeavor[1] and claims it will drive economic growth by offering a reliable open-source communication tool; it will promote economic development, job creation, and innovation across key sectors such as law, healthcare, and education; it aims to enhance societal welfare by providing a more efficient and accessible method of delivering communication services to a broad segment of the U.S. population; and it is expected to generate substantial positive economic impacts, particularly in economically disadvantaged areas, by stimulating the national economy through improved interaction between consumers and entrepreneurs. The Petitioner mentions that the proposed endeavor is closely tied to the advancement of software development in artificial intelligence, robotics, the "Internet of Things," and other automation applications. The Petitioner then describes aspects of the systems

[1] The Petitioner previously stated the proposed endeavor is to create a platform that offers secure video conferencing, AI-assisted scripted consultations, and a highly customizable user interface using Bootstrap and CSS; and it will support multi-device compatibility, allow meetings to be stored on Google Drive, and offer seamless integration with tools like Google Calendar, Microsoft Outlook, PayPal, and Strider for billing and scheduling.

analyst and software engineer occupations and mentions they contribute to the efficiency and integrity of the country.

We adopt and affirm SCOPS' decision that the Petitioner has not established the national importance of the proposed endeavor. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted"). SCOPS provided the law related to the national importance requirement, provided a description of the proposed endeavor, and thoroughly and accurately evaluated the Petitioner's claims and evidence related to whether the proposed endeavor has national importance. SCOPS correctly concluded that the Petitioner did not establish that the proposed endeavor has national importance. In making this finding, SCOPS stated that the Petitioner's work in the software engineering industry and the importance of the field do not establish the national importance of the proposed endeavor. SCOPS noted that the relevant question is not the importance of the industry in which the Petitioner would work, rather it is whether the specific proposed endeavor has national importance. SCOPS mentioned that the Petitioner did not provide evidence of how the proposed endeavor would address significant challenges, advance critical technologies, or contribute to the U.S. economy; how one software engineering consultant would improve a national shortage or trigger substantial positive economic and national impacts; or how the proposed endeavor would transcend the organizational level to create a significant economic impact or further human knowledge in the Petitioner's area of specialty. SCOPS concluded the decision by finding that the Petitioner did not provide sufficient evidence of the prospective endeavor's potential prospective impact, including broader implications, or national or global implications within the field; significant potential to employ U.S. workers; substantial economic effects, particularly in an economically depressed field; broad enhancement of societal welfare; or broad enhancement of cultural or artistic enrichment. Therefore, SCOPS found that the Petitioner did not establish the proposed endeavor is of national importance.

On appeal, the Petitioner does not provide any evidence to overcome the evidentiary deficiencies detailed by SCOPS. Rather he makes the same and similar arguments as made previously. The record does not establish, by a preponderance of the evidence, that the proposed endeavor has national importance. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the second and third prongs outlined in *Dhanasar* and whether his proposed endeavor has substantial merit. *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).

ORDER: The appeal is dismissed.