U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38054646

Date: AUG. 04, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a lawyer, 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* section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers, concluding that the Petitioner 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, petitioners must establish they are advanced degree professionals or individuals of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If petitioners establish 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.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

A. EB-2 Classification

The Petitioner claimed she qualifies for the underlying EB-2 visa classification as an advanced degree professional. However, SCOPS did not determine whether the Petitioner qualifies for the EB-2 visa classification and the Petitioner does not raise her eligibility on appeal. On her Form I-140, the Petitioner indicated her intention to work in the United States as a lawyer, under the Standard Occupational Code (SOC Code) 23-1011. According to the Department of Labor (DOL)'s *Occupational Outlook Handbook* relating this SOC Code, the typical entry-level education is a doctoral or professional degree.[2] If a doctoral degree is customarily required by the specialty, the Petitioner must have a U.S. doctorate or a foreign equivalent degree. 8 C.F.R. § 204.5(k)(2); *see generally* 6 *USCIS Policy Manual* F.5(A)(2), https://www.uscis.gov/policy-manual. The Petitioner submitted an academic evaluation in the record below stating her foreign equivalent bachelor's degree followed by her over twenty years of full-time experience in the field of law is equivalent to a U.S. Juris Doctorate degree. The author of the evaluation did not provide any legal authority in support of this assertion. The Petitioner's academic record and supporting documentation show she obtained the foreign equivalent of a bachelor's degree in law in Brazil, not a doctoral degree, as required under 8 C.F.R. § 204.5(k)(2). The Petitioner has therefore not established her eligibility for the EB-2 visa classification.

B. National Interest Waiver

SCOPS determined that the Petitioner demonstrated the substantial merit of her proposed endeavor, but not its national importance to meet *Dhanasar's* prong one requirements. It further determined that the Petitioner had not established she is well-positioned to advance her proposed endeavor, and on balance, waiving the job offer requirement would benefit the United States, to demonstrate *Dhanasar's* second and third prongs.

On appeal, the Petitioner does not address the Director's determination that she did not establish *Dhanasar's* third prong and has therefore waived this issue. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (providing that any ground of ineligibility that is not raised on appeal is waived,

[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).

[2] *See* Bureau of Labor Statistics, U.S. Dep't of Labor, *Occupational Outlook Handbook*, Lawyers, https://www.bls.gov/ooh/legal/lawyers.htm).

citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)). As this issue is dispositive, the Petitioner has not demonstrated her eligibility for the national interest waiver.

While our analysis may stop here, we add that we also agree with SCOPS that the Petitioner has not established the national importance of her proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. "We look for broader implications" of the proposed endeavor and explained that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* at 890. 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.*

According to the Petitioner's endeavor statement, she intends to establish the Center for Legal Innovation in Sustainable Energy, a legal consultancy hub in the United States dedicated to driving the transition towards renewable and clean energy by providing in-depth legal and regulatory guidance, facilitating access to government subsidies and grants, and creating a cooperative platform for cross-sector collaboration among clients, professionals, investors, and government entities. In order to maximize the impact of her proposed endeavor, the Petitioner stated she intends to establish a digital legal research platform, collaborate with academic institutions, publish books and technical manuals, use social media and online platforms, and organize virtual workshops and webinars.

In response to SCOPS' Request for Evidence (RFE), seeking clarification on what the Petitioner intends to do in the United States, the Petitioner submitted a statement asserting she intends to advocate for initiatives, such as, modernizing the Public Utility Regulatory Policies Act (PURPA), creating energy permitting systems, establishing national clean energy technology acceleration programs, and advancing grid integration protocols. She then explained the impact of her plan, claiming for example, that it will allow efficient implementation of sustainable energy, and will benefit professionals and companies of all sizes.

In determining the Petitioner had not established the national importance of her proposed endeavor, SCOPS noted, in relevant part, that the Petitioner's role as advocate in an important field, industry, or profession does not establish the national importance of her endeavor. SCOPS further determined the Petitioner had not established the broader implications of her proposed endeavor.

On appeal, the Petitioner acknowledges the center's role will be to "advocate for changes essential for the adoption of renewable energy technologies and fostering public and private partnerships" and she claims her center, by streamlining legal barriers and fostering innovation, will create jobs and promote auxiliary economic activity, as well as inspire entrepreneurship and draw investments into the renewable energy industry.

However, it is not apparent how the Petitioner's advocacy to simplify and accelerate the development of energy solutions would have global or national implications to the field. For example, she does not explain what she means by modernizing PURPA or the energy sector, and to the extent she intends to advocate for change to the law or the field, her response to the RFE includes articles showing these initiatives are already in existence and she does not claim to have contributed to the studies and reports

on these initiatives, nor does she describe how she plans on improving, advancing or largely influencing these initiatives in a way that would rise to national importance. In addition, she claims she will establish a digital legal research platform, publish books and technical manuals but she does not clarify how her research platforms or books would offer services or information that are not already in existence and would be widely shared to have an impact on the field beyond the clients using these tools. The *Dhanasar* decision contemplates that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* at 893. However, the Petitioner has not established the extent to which her proposed endeavor's methods or strategies improve upon those already available and in use in the United States such that her proposed endeavor would have national or global implications within her field or for the United States. Further, while the Petitioner continues to make general claims regarding streamlining sustainable energy processes benefitting the economy, the Petitioner did not sufficiently explain or demonstrate how her particular proposed endeavor would have any projected U.S. economic impact or job creation. Without such evidence, the record does not show any benefits to the U.S. regional or national economy resulting from her services or position would reach the level of "substantial positive economic effects" as contemplated by *Dhanasar*. *Id.* at 890.

As the Petitioner has not established *Dhanasar's* first and third prongs, we decline to reach and hereby reserve the Petitioner's remaining appellate arguments. *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).

III. CONCLUSION

The Petitioner has not established her eligibility for the underlying EB-2 classification or that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.