U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38068492

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 financial advisor and entrepreneur, 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 the Petitioner did not establish a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The Petitioner filed a motion to reopen and to reconsider with SCOPS, which was denied. 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

SCOPS determined the Petitioner established her eligibility for the underlying EB-2 classification as an advanced degree professional. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.* According to SCOPS, the Petitioner has the foreign equivalent of a bachelor's degree followed by five years of progressive experience in the specialty. We disagree.

In support of her being an advanced degree professional, the Petitioner included an academic evaluation asserting that "the nature of the courses and the credit hours involved indicate she attained the foreign equivalent of a four-year Bachelor of Arts Degree in Economics" from the Federal National State-Funded Educational Institution in Russia. However, the associated transcript for this degree states she enrolled in the program in 2010 and graduated in June 2013. A U.S. bachelor's degree generally requires four years of education. *Matter of Shah*, 17 I&N Dec. 244 (Reg'l Comm'r 1977). The Petitioner did not demonstrate she attended four years of education to obtain her degree in economics. As she has not demonstrated she has the foreign equivalent of a bachelor's degree, she has not established she is an advanced degree professional under 8 C.F.R. § 204.5(K)(2) and we withdraw SCOPS' determination to the contrary.

The Petitioner does not claim that she is an individual of exceptional ability in the sciences, arts, or business. As a result, we also withdraw SCOPS' finding that the Petitioner established her eligibility for the underlying EB-2 classification. *See* section 203(b)(2)(A) of the Act (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).

B. NATIONAL INTEREST WAIVER

SCOPS concluded that while the Petitioner established the substantial merit of her proposed endeavor, she did not demonstrate its national importance to meet *Dhanasar's* first prong. SCOPS also determined that while the Petitioner established she was well-positioned to advance her proposed

[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).

endeavor under *Dhanasar's* second prong, she did not demonstrate, on balance, waiving the job offer requirement would benefit the United States under *Dhanasar's* third prong.

We agree that the Petitioner has not established the national importance of her proposed endeavor. As this issue is dispositive of the appeal, we hereby reserve whether the Petitioner has established her eligibility under the remaining *Dhanasar* prongs. *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).

In determining whether a 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.*

In the underlying record, the Petitioner submitted a statement explaining that her proposed endeavor is to open a company in [redacted] New York providing tax consulting to entities and individuals. According to Petitioner's business plan, the company, through innovative approaches, will, for example, attract foreign companies to expand their operations in the United States, create employment opportunities for U.S. citizens, support the growth and stability of small and medium-sized enterprises, enhance financial literacy, contribute to a fairer more efficient tax system, improve financial health and stability, set industry standards, and support national initiatives, thereby broadly enhancing societal welfare. The plan projects revenue and sales for the first year to be $400,000 and the company will employ four full-time employees and two employees during the tax season.

In denying the combined motions, SCOPS determined that while the Petitioner intends to provide valuable services in business, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor stands to sufficiently extend beyond her future clientele and business to impact her field or the U.S. economy more broadly at a level commensurate with national importance. On appeal the Petitioner asserts, in relevant part, that SCOPS did not properly weigh her evidence of national importance.

The Petitioner asserts that SCOPS did not consider that her proposed endeavor is aligned with key national interests, such as assisting immigrant-owned businesses. However, merely working in an important field or in an area a government entity has described as a priority is insufficient to establish the national importance of the proposed endeavor. *See id.* at 889 (explaining that in determining national importance, we do not focus on the importance of the field, industry, or profession in which the individual will work but on "the specific endeavor that the foreign national proposes to undertake").

She also claims that SCOPS' decision minimized her business growth and employment projections. However, the Petitioner did not present any supporting evidence, corroborating the assertions and figures presented in the business plan. On appeal, the Petitioner submits an appendix to her business

plan, but it similarly contains uncorroborated statements and does not demonstrate how her claimed revenue and employment projections, even if credible, plausible, or substantiated have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation as contemplated by *Dhanasar*. *Id.* at 890. For example, the Petitioner does not show how her future staffing levels would utilize a significant population of workers in the New York City region or would substantially impact job creation and economic growth, either regionally or nationally to be understood to have national importance.

The Petitioner also asserts she clearly demonstrated the broader impact of her proposed endeavor. However, the Petitioner's statements in her original business plan, including that she will support the growth and stability of small and medium-sized enterprises, contribute to a fairer, more efficient tax system, and, in the appendix to the business plan, that she will, for example facilitate integration of immigrant entrepreneurs and augment tax compliance efforts, without corroboration in the record does not demonstrate her endeavor's national importance. Rather, the Petitioner only generally claims her company will use innovative solutions. We acknowledge that 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 did not identify in the record below or now on appeal the innovative methods and improvements she intends to implement or explain how these measures would have global or national implications to the field beyond the individuals or entities using them. Moreover, the Petitioner has not demonstrated 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.

The Petitioner has therefore not established by a preponderance of the evidence the broader implications of her proposed endeavor that it would have global implications within her field or would have substantial positive economic effects, particularly in an economically depressed area, to be understood to have national importance.

III. CONCLUSION

The Petitioner has not established her eligibility for the underlying EB-2 visa classification. The Petitioner also has not established the national importance of her proposed endeavor, a requirement to establishing prong one of *Dhanasar's* framework and that she merit a discretionary waiver of the job offer requirement "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.