U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40527192

Date: DEC. 3, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an industrial 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).

Service Center Operations (SCOPS) denied the petition, concluding that although the Petitioner qualifies for the EB-2 classification as an advanced degree professional, the record did not establish that a waiver of the required job offer, and thus 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;

[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).

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

Id.

II. ANALYSIS

SCOPS determined that the Petitioner is a member of the professions holding an advanced degree.[2] The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework. While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

In the present matter, the Petitioner states that his proposed endeavor is "to reduce defects and wastes in construction and optimize energy usage through efficient building design." The Petitioner elaborated on his endeavor in response to a request for evidence (RFE), stating that he will implement "a transformative approach to project management that prioritizes efficiency, collaboration, and waste reduction throughout the construction process." He claims that his endeavor will result in cost and energy savings, reduced greenhouse gas emissions, and improved public health from reduction of air pollution caused by construction and demolition waste.

SCOPS found that the Petitioner did not demonstrate that his endeavor to work as a project engineer would: extend beyond the individuals he would serve to broadly impact his field or industry, enhance societal welfare, or create economic benefits at a national importance level. SCOPS therefore determined that while the proposed endeavor has substantial merit, the Petitioner did not demonstrate that the endeavor is of national importance, as required by the first *Dhanasar* prong.

On appeal, the Petitioner disputes SCOPS' conclusion, arguing that his endeavor "addresses significant challenges in the construction industry" by using "advanced techniques" that will ensure waste reduction, optimal use of energy, and improved construction efficiency.

While the Petitioner provided industry reports showing that construction waste is a growing concern, it is unclear how his specific endeavor would broadly impact the nation or even an industry, such as construction or industrial engineering. In fact, the Petitioner appears to have broadly considered the cumulative impact of industrial project engineers in the construction industry rather than focusing on his specific endeavor and explaining how his individual work stands to broadly impact public health or the environment, as claimed.

[2] The record demonstrates that the Petitioner holds a Master of Science degree in industrial engineering, awarded in 2022. *See* 8 C.F.R. § 204.5(k)(3)(i)(B).

Although the proposed endeavor as described above has merit, the evidence does not demonstrate that it would have significant potential to employ U.S. workers, have substantial positive economic impact in the United States, broadly impact an industry on a national or global level beyond a prospective employer or prospective customers, or otherwise have broader economic or societal implications rising to the level of national importance. *Dhanasar*, 26 I&N Dec. at 889-890. Thus, despite showing that his endeavor's goals "align with national priorities" and environmental concerns, the Petitioner has not established that the specific endeavor will broadly impact those priorities and concerns. Likewise, despite the Petitioner's effort to address public health concerns associated with construction waste, he has not demonstrated that his individual endeavor has the potential to reduce air pollution, promote sustainable building practices, or otherwise broadly impact public health on a scale that is consistent with national importance. *See Matter of Chawathe*, 25 I&N Dec. at 376 (stating that assertions must be supported with relevant, probative, and credible evidence).

Further, while the RFE response included evidence, such as articles on construction waste management and documents concerning a construction and demolition waste management project in [redacted], Florida, such evidence does not support the Petitioner's claims about his plans to involve "policy and regulatory framework" as part of his proposed endeavor. *See id.*

The Petitioner also claims that his endeavor will have substantial positive economic effects and points to an annual cost of $15.8 billion resulting from inefficiencies in the construction industry. In the RFE response, the Petitioner claimed that the national benefit of his endeavor" is highlighted in a publication by the United States National Center for Biotechnology Information (NCBI)." We disagree. While the NCBI discussed construction and demolition waste and the "pressing economic, social and environmental concern" caused by such waste, there is no mention in that publication of the Petitioner or his specific endeavor. And while it is possible that the Petitioner may be able to cut costs and improve productivity on individual construction projects, he has not provided evidence that he will work on such a scale as to significantly impact the $15.8 billion in construction inefficiencies industry-wide. Nor has the Petitioner provided evidence that his endeavor alone "has the potential to generate significant economic benefits by reducing construction costs, improving productivity, and stabilizing supply chains," as claimed on appeal. *See id.*

In assessing the national importance of a proposed endeavor under *Dhanasar*'s first prong, we look to its "potential prospective impact" and evaluate whether the specific endeavor a petitioner proposes to undertake has broader national significance, rather than the importance of a profession or industry in which the petitioner proposes to engage. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner proposed to use his industrial engineering degree and his experience in the construction industry to achieve certain beneficial results, such as cutting costs, reducing construction waste, and improving public health. However, there is no evidence that the Petitioner's individual work has the potential to broadly achieve the intended results on a national scale or across an entire industry. In fact, the Petitioner does not specify, nor does the record show how his proposed endeavor otherwise stands to impact the U.S. economy or benefit economically depressed areas. *Id.* at 890 (holding that proposed endeavors that have "significant potential to employ U.S. workers" or "substantial positive economic effects, particularly in an economically depressed area" may indicate national importance).

In sum, the Petitioner has not demonstrated that his proposed endeavor stands to impact the construction industry or the United States more broadly at a level that is commensurate with national

importance.

Because the documentation in the record does not sufficiently establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve his appellate arguments regarding his eligibility under the third prong. *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

As the record does not establish that the Petitioner has met the requisite first prong of the *Dhanasar* analytical framework, we find that he is not eligible for a national interest waiver as a matter of discretion.

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 who are 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.