U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40340117

Date: DEC. 03, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a truck driver and entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability, 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 record did not establish that a waiver of the required job offer, and thus of a 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.

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*. If a doctoral degree is customarily required for the specialty, the alien must possess a U.S. doctorate or a foreign equivalent degree. *Id*.

Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[1] 8 C.F.R. § 204.5(k)(2).

[1] Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[2] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. 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,[3] 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.

Id.

II. ANALYSIS

The Petitioner is a truck driver who proposes to provide transportation and logistics services through his company, [redacted] SCOPS denied the petition, concluding that the Petitioner failed to establish a discretionary waiver of the required job offer, and thus of the labor certification, would be in the national interest.

A. EB-2 Classification

With respect to the underlying EB-2 classification, the Petitioner does not claim eligibility for classification as a member of the professions holding an advanced degree. Instead, he claims to be eligible as an individual of exceptional ability in the sciences, arts, or business. SCOPS determined that the Petitioner met three of the six criteria and, without conducting a final merits determination, concluded that the Petitioner qualified for the underlying classification as an individual of exceptional ability. However, meeting three criteria does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise

[2] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

[3] *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).

and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. Section 203(b)(2)(A) of the Act.

We therefore withdraw SCOPS' favorable finding regarding the Petitioner's eligibility as an individual of exceptional ability. However, as the resolution of the issues regarding the Petitioner's eligibility for a waiver of the job offer requirement, and thus of a labor certification, under the *Dhanasar* analytical framework is dispositive of this appeal, we will reserve consideration of the Petitioner's eligibility for the requested EB-2 category. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal in removal proceedings where an applicant did not otherwise qualify for relief).

B. The Proposed Endeavor's Substantial Merit and National Importance

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.*

SCOPS concluded that the Petitioner's proposed endeavor has substantial merit. SCOPS determined, however, that the Petitioner did not establish the proposed endeavor is of national importance, that he is well positioned to advance it, and that, on balance, it would benefit the United States to waive the job offer requirement. On appeal, the Petitioner contends that SCOPS' decision contains errors of fact, law, and policy, and that SCOPS mischaracterized and overlooked the submitted evidence. The Petitioner further contends that his evidence "directly demonstrates" his endeavor's national importance. The record contains academic credentials, a resume, company documents, tax returns, a business plan, recommendation letters, and an expert opinion letter. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

The Petitioner states that his company is "a prominent trucking company based in Wisconsin and specializing in the transportation of goods and freight across varied distances and routes within the United States." He notes that the company will use trucks equipped with cutting-edge technology to ensure efficient tracking, communication, and safety during interstate travel. The Petitioner also explains that the business will offer a wide range of services, including long-haul and short-haul freight transportation and express delivery, and that the company will implement a digital marketing strategy, including investing in online marketing campaigns and establishing a social-media presence.

The Petitioner states that he will contribute to the advancement of U.S. logistics and transportation services by capitalizing on his company's competitive advantages and expanding its operations. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. 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 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. Here, the Petitioner maintains that he will contribute to the growth of the trucking industry through his company and by providing trucking services. The Petitioner, nonetheless, has not demonstrated that his proposed endeavor offers broader implications in his field or substantial positive economic effects for the country that rise to the level of national importance.

While we acknowledge the substantial merit of the Petitioner's proposed endeavor, the record does not establish that the Petitioner's proposed endeavor's impact will be nationally important. Similarly, while we recognize the Petitioner's assertions in his initial petition and in response to SCOPS' request for evidence, the Petitioner has not provided additional insights on appeal to demonstrate his proposed endeavor's national importance.

For example, the Petitioner asserts that his business will create "meaningful employment opportunities" and "inject vitality" into his community. He states, through his business plan, that he will hire a total of nine full-time employees in the first year including himself, as a chief executive officer, and that this number will increase to 29 full-time employees by the end of the fifth year. He further projects that the company will generate a net profit of $92,457 in the first year and $182,077 by the fifth year. However, the Petitioner does not provide sufficient detail of the basis of these projections or adequately explain how these staffing targets and revenue forecasts will be realized. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to his future work, the record does not show that the benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *See Dhanasar*, 26 I&N Dec. at 890.

The Petitioner states that he is "an experienced professional" in the trucking industry who is willing to share his knowledge with others and play a key role in "leading his team towards successful professionals." He further emphasizes his "deep understanding of logistics and business management" and claims that his "experience and knowledge will have a positive national impact" by delivering "high-quality and safe transportation services, contribute to the industry's growth, and provide benefits to the U.S. economy." The first prong focuses on the proposed endeavor itself, not the petitioner. *Id.* The Petitioner must establish that his specific endeavor has national importance under *Dhanasar's* first prong. Moreover, although an individual's experience, qualifications, contributions, and achievements are material, they are misplaced in the context of the first *Dhanasar* prong. The Petitioner's professional experiences are generally material to *Dhanasar*'s second prong—whether an individual is well positioned to advance a proposed endeavor—but they are generally immaterial to the first *Dhanasar* prong—whether a specific, prospective, proposed endeavor has both substantial merit and national importance. *See id.* at 888-91.

The Petitioner states that his endeavor is "perfectly aligned" with national interests identified by the Biden Administration's Interim National Security Strategic Guidance. As previously mentioned, in determining national importance, the relevant question is not the importance of the industry or

profession in which the individual will work. Instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, the Petitioner has not demonstrated that his undertaking has implications beyond his customers and companies he elects to work with to impact the U.S. economy on a broad scale rising to the level of national importance. Furthermore, alignment with general national goals, in and of itself, does not necessarily establish that the Petitioner's endeavor rises to the level of national importance. In this case, the record does not include adequate corroborating evidence, to show that the Petitioner's specific proposed endeavor offers broader implications in his field, enhancements to U.S. societal welfare, or substantial positive economic effects for the country that rise to the level of national importance.

Although the Petitioner states that his endeavor will contribute to the U.S. economy by supporting international trade, addressing trucking shortage, and benefiting economically depressed areas, the evidence does not sufficiently support such a conclusion. While his endeavor may have a direct impact on his employees and clients, it does not demonstrate how these benefits would extend to the broader trucking and transportation industry or have an impact so broad as to affect the U.S. economy.

C. The Remaining *Dhanasar* Prongs

Because the documentation in the record does not establish the proposed endeavor's national importance as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. 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*. *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 the national importance of his proposed endeavor, and he does not meet the first prong of the *Dhanasar* analytical framework. Consequently, the Petitioner has not demonstrated that he is eligible for or merits a waiver of the job offer and labor certification requirements in the national interest 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.