U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40551454

Date: DEC. 09, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a civil engineer 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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner qualified for the EB-2 classification as a member of the professions holding an advanced degree, but that he 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, 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:

[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 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

We agree with SCOPS that the Petitioner qualifies as a member of the professions holding an advanced degree.[2] The remaining issue to be determined is whether the Petitioner has established that waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. SCOPS denied the petition, concluding that although the proposed endeavor has substantial merit and national importance, the record does not demonstrate that the Petitioner is well-positioned to advance his endeavor and on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

With the initial filing, the Petitioner claimed that his proposed endeavor involves working as an engineer and CEO of his own company, [redacted],[3] to "promote economic development and innovation with the Development of Real Estate business by launching startups tailored to bring technology into the field of affordable housing especially in the areas of rapid economic growth that are rendering housing unaffordable to the working community" and "create accessible and affordable housing solutions for low- and middle-income residents by offering three key services: 3D Printing Construction, Micro-Housing Development Projects, and Tech-Integrated Real Estate Development."

In response to SCOPS' request for evidence (RFE), the Petitioner indicated that his proposed endeavor "is not focused on personally launching or managing multiple independent startups" but "to establish a single, innovation-driven company, . . . that will serve as a catalyst for the growth of startups and emerging enterprises operating in the affordable housing and real estate technology sector." The Petitioner reiterated that his company would provide "3D printing construction solutions, micro-housing development, and smart real estate integration" to "developers, municipalities, and mission-driven startups that share the goal of expanding access to sustainable and cost-effective housing solutions."

A. Whether the Proposed Endeavor Has Substantial Merit and National Importance

Upon de novo review, we withdraw SCOPS' determination on the first prong and conclude that the Petitioner did not sufficiently establish national importance of his endeavor. The Petitioner has shown substantial merit of his endeavor in that he plans to provide affordable housing and address the issues of rising housing costs and homelessness. But 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" and look to

[2] The record indicates that the Petitioner obtained a bachelor's degree in civil engineering from a Turkish university and a master's degree in marine engineering and management from science and technology universities in Netherlands and Norway.

[3] This company that the Petitioner proposes to operate in the United States bears the same name as the real estate investment company in Turkey that he founded in 2018.

the evidence documenting its "potential prospective impact." *See Dhanasar*, 26 I&N Dec. at 889. Here, the record does not sufficiently detail the prospective impact of the proposed endeavor, either as providing innovations in the field of real estate development or having substantial economic impact to a region or the nation as a whole, as discussed in *Dhanasar*.

The Petitioner has claimed that his proposed endeavor's focus is to provide innovative technological solutions to real estate developers so that low- and middle-income families have access to affordable and sustainable housing. However, the evidence in the record does not sufficiently corroborate such claim. As contemplated by *Dhanasar*, "[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 889.

We reviewed letters of recommendation and an expert opinion letter, but they do not provide persuasive details regarding the Petitioner's innovative or advanced techniques. For example, the letter from [redacted] Chamber of Commerce's chairman in Turkey describes the Petitioner as "an accomplished professional with a wealth of experience in real estate development, project management, and technological integration" and discusses the Petitioner's successful handling of residential and commercial real estate projects in the past. However, the letter does not explain what the Petitioner's innovative technologies are, aside from naming 3D printing, or elaborate how the Petitioner plans to "[merge] technology with real estate development." The other recommendation letter is from an associate professor in civil engineering from [redacted] in Turkey who describes his relationship to the Petitioner as an acquaintance "during our college years." The author emphasizes the Petitioner's commitment to "holistic understanding of the interconnectedness of real estate, technology, and sustainable practices" but does not elaborate on the Petitioner's innovations or unique methodologies that would rise to the level of national importance.

Similarly, the expert opinion letter submitted with the RFE response largely dwells on the Petitioner's experience as a civil engineer and a successful entrepreneur in Turkey and provides the general information regarding the housing shortage in the United States and the federal government's initiatives and priorities on affordable housing. However, it does not provide information concerning the endeavor's specific impact that demonstrates national importance.

The Petitioner asserted that his business plan establishes how his endeavor will bring economic benefits and grow the United States economy. In *Dhanasar*, we 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. The Petitioner's original business plan contains a five-year projection for future staffing and anticipates that the company will grow from 8 employees in year one to 32 employees with a total payroll of $3,763,207 by year five. The plan also projects the company's sales to grow from $156,480 in year one to $762,838 by year five. In response to the RFE, the Petitioner submitted an updated business plan to include 72 indirect jobs in addition to 32 direct hires and asserted that by year five the total combined impact of the company's operations is "estimated at over 100 jobs (direct + indirect)" and cited to the national job multiplier published by the Economic Policy Institute (EPI) stating that "100 direct jobs in the Construction industry generate a total of 226.1 total indirect jobs."

However, the Petitioner does not adequately explain how these staffing numbers, profit projections, and sale forecasts were calculated, or submit the basis for the multiplier evidence or the methods for deriving indirect job numbers given that EPI figures apply to broad categories of industries, rather than specifically to the Petitioner's proposed endeavor or intended occupation. While the business plans indicate that the Petitioner's company has growth potential, they lack corroborating evidence to support that benefits to the regional or national economy resulting from the Petitioner's undertaking would reach the level of "substantial positive economic effects" as contemplated by *Dhanasar*. *Id*. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner also claimed that he will contribute to bringing affordable housing to the economically disadvantaged population. However, he has not offered sufficient evidence that the areas in which he plans to operate his company are economically depressed, that he would employ a significant population of workers in these areas, or that his endeavor would offer the regions or its population a substantial economic benefit through employment levels or real estate projects. The Petitioner asserted that his company will initially set up operations "in California, particularly in the [redacted], where the housing crisis has reached critical levels" and eventually expand to [redacted], and [redacted] in the phase two of implementation, and to [redacted], and [redacted] in the phase three. However, the record does not provide details or meaningful discussion on how his company will affect the economically depressed areas other than referencing the distressed community index (DCI) for the city of [redacted], California.

The Petitioner's statements reflect his intention to provide valuable services for expanding affordable housing, but he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. Here, we find the record is insufficient in demonstrating that the Petitioner's proposed endeavor stands to extend beyond his company and its clients to impact the real estate industry or the U.S. housing more broadly at a level commensurate with national importance. Accordingly, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework.

B. Whether the Petitioner Is Well-Positioned to Advance the Proposed Endeavor

Upon review, we withdraw SCOPS' analysis on the second prong as it misapplied the *Dhanasar*'s standards and discussed the endeavor's national importance instead of referencing the second prong factors in *Dhanasar*. However, we agree with SCOPS' ultimate conclusion that the Petitioner is not well-positioned to advance his endeavor for the reasons discussed below.

While the first prong of the *Dhanasar* framework focuses on the proposed endeavor and whether it has substantial merit and national importance, the second prong shifts the focus to the individual petitioner and whether they are well-positioned to advance it. To determine whether an individual is well-positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge, and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Dhanasar*, 26 I&N Dec. at 890; s*ee also* 6 USCIS Policy Manual F.5(D)(4), https://www.uscis.gov/policymanual (describing several categories of evidence that an entrepreneur may submit in support of a request for a national

interest waiver, including ownership and an active or central role in a U.S.-based entity, documents showing a future intent to invest by an outside investor, incubator or accelerator participation, intellectual property, and relevant growth metrics for the startup company).

We first consider the factors regarding the Petitioner's education, skills, and knowledge. At the time of filing, the Petitioner had a master's degree in engineering. We consider an advanced degree in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology a positive factor to be considered along with other evidence in assessing the second prong. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual. Additionally, we note that the Petitioner founded and managed his own companies in Turkey which provides the necessary experience and skills in entrepreneurship and the record contains recommendation letters attesting to the Petitioner's experience, skills, and abilities as a civil engineer and an entrepreneur.[4]

However, the record lacks documentation of any progress towards achieving the proposed endeavor, which might include the establishment of the business as a legal entity, registration of the business, securing any necessary funding, renting or purchasing physical space for the business, and the hiring of employees and contractors. Although the business plan includes the model or plans for his activities such as financial forecasts and projections, company milestones, or funding sources that would assist in evaluating this second prong, the Petitioner has not offered any documentation to show the progress of launching the company in the United States or how this company has met certain milestones as outlined in the business plans. The Petitioner included two pages of his bank statements in Turkey to show that he is financially solvent to start this business in the United States, but this evidence alone is not adequate to verify progress on his endeavor.

Additionally, the record does not demonstrate interest from potential customers, users, investors, or other relevant entities or individuals. *Dhanasar*, 26 I&N Dec. at 890. The Petitioner offered two more recommendation letters from the industry professionals with his RFE response, but they do not express interest in using the Petitioner's specific innovations and technologies but explain in general terms how 3D printing construction methods or micro-housing integration contribute to building more affordable and sustainable housing. Aside from the claims in letters or business plans, the Petitioner has not shown other corroborating evidence that his marketing strategies resulted in obtaining sales, contracts, or clients, to demonstrate interest from relevant entities, or evidence of steps taken to obtain any investment, contracts, or partnerships.

While "we do not . . . require petitioners to demonstrate that their endeavors are more likely than not to ultimately succeed," *id.*, here the record includes more information about the Petitioner's past achievements as an entrepreneur in the real estate investment in Turkey than about the prospects of his proposed business in the United States. Accordingly, the Petitioner has not demonstrated sufficient progress or interest in his work from relevant parties, to show that he is well-positioned to advance the proposed endeavor, which is to bring innovative technology to the real estate industry in the nation, as he claimed. We therefore conclude that the Petitioner has not met the second prong of *Dhanasar*.

[4] We withdraw SCOPS' statement that the Petitioner is not well-positioned because he does not have a license to work as a civil engineer in the United States. As claimed by the Petitioner, his role in the proposed endeavor is not to engage "in regulated, license-dependent civil engineering practice in the United States . . . [r]ather, his endeavor is entrepreneurial in nature." Therefore, whether or not the Petitioner has a U.S. civil engineering license is not material to being well-positioned to manage his own real estate investment company.

III. CONCLUSION

As the Petitioner has not met the requisite first and second prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. As the identified reasons for dismissal are dispositive of the appeal, we decline to reach and hereby reserve the Petitioner's arguments concerning eligibility under the *Dhanasar*'s third prong. *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.

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.