U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40649469

Date: DEC. 12, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a software developer 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 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

The Petitioner obtained the foreign equivalent of a U.S. master's degree in computer science in Ukraine in 2011. SCOPS determined the Petitioner is an advanced degree professional and we agree.

The Petitioner's proposed endeavor is to offer a portfolio of information technology services to U.S. based startups and small businesses through an all-in-one technology agency for innovative web, mobile, and cloud solutions. SCOPS found that while the Petitioner established the substantial merit of his proposed endeavor, he did not demonstrate its national importance to meet *Dhanasar's* first prong. We also agree.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* Because the record reflects the proposed endeavor falls within one or more of these areas, the Petitioner has established the substantial merit of his proposed endeavor.

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.*

On appeal, the Petitioner asserts that SCOPS' decision was contrary to law and that the national importance of his proposed endeavor was supported by the record. The Petitioner argues that his company is actively advancing Artificial Intelligence (AI) across multiple critical sectors including manufacturing, agriculture, education, and hospitality, and that its client-facing work features the development and deployment of proprietary AI models, custom-built integrations, and frameworks for AI ethics and data security, the areas in which U.S. policy calls for leadership and rapid advancement. According to the Petitioner, the law is clear that the national importance requirement is satisfied when the endeavor directly impacts a matter that U.S. government entities have designated as a national priority. However, the Petitioner does not provide any legal authority in support of his argument. As

[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).

SCOPS explained in the denial, 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").

Here, the Petitioner has not demonstrated how his specific proposed endeavor will have national or global implications in the field. He argues, for example, that his company is "shaping how the industry evolves," and "setting standards that are becoming influential beyond its direct client base." 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 what standards his company is setting or how these standards or processes improve upon those already available and are shaping the evolution of the industry to corroborate his arguments and demonstrate his standards and processes would have global or national implications beyond the individuals or entities using them.

The Petitioner also argues that SCOPS overlooked the quantifiable results of his business, which demonstrates substantial positive economic effects and job creation. According to the Petitioner, his company generated $614,739 in gross revenue at a healthy 13% profit margin in 2023. However, *Dhanasar's* first prong focuses on the proposed endeavor's merit and importance. *Id.* The Petitioner's evidence of company ownership and progress towards achieving the proposed endeavor is more relevant to our analysis of *Dhanasar's* second prong, which looks to whether he is well positioned to advance his proposed endeavor. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), (6), https://www.uscis.gov/policy-manual (providing, as guidance, relevant factors in analyzing *Dhanasar's* second prong and considerations for entrepreneurs). The Petitioner further adds that he anticipates reaching seven million in annual revenue by 2029, and to create 30 full-time positions for U.S. workers over five years between Florida and Missouri to advance regional diverse economic development. The Petitioner refers us to his business plan in support of his assertions. However, the Petitioner does not present any supporting evidence, corroborating the projections and figures presented in the business plan to demonstrate how his claimed revenue and employment projections, even if credible, plausible, and substantiated would have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation as contemplated by *Dhanasar*. *Id.* at 890. For example, the Petitioner does not show how his future staffing levels would utilize a significant population of workers in the Florida through Missouri region or would substantially impact job creation and economic growth, either regionally or nationally to be understood to have national importance.

Based on our de novo review, SCOPS properly reviewed the evidence and its determination with respect to the national importance of the Petitioner's endeavor was not contrary to law. The Petitioner has not established, by a preponderance of the evidence, the broader implications of his proposed endeavor, that it would have global implications within his field or would have substantial positive economic effects, particularly in an economically depressed area, to be understood to have national importance.

SCOPS further determined that while the Petitioner established he was well-positioned to advance his proposed endeavor under *Dhanasar's* second prong, he did not demonstrate, on balance, waiving the job offer requirement would benefit the United States under *Dhanasar's* third prong. Because the Petitioner has not established the national importance of his proposed endeavor, which is dispositive of this appeal, we hereby reserve whether the Petitioner has established his 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).

III. CONCLUSION

The Petitioner has not established the national importance of his proposed endeavor, a requirement to establishing prong one of *Dhanasar's* framework and that he merits 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.