U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40459903

Date: DEC. 17, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as an alien 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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner neither qualifies for EB-2 classification, nor did he establish 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. The regulations define "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business." 8 C.F.R. § 204.5(k)(2).

Once a petitioner demonstrates eligibility for the underlying EB-2 classification, the petitioner must then establish eligibility for 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 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as a 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. at 889.

II. ANALYSIS

SCOPS determined the Petitioner did not establish his eligibility for EB-2 classification as an alien of exceptional ability under 8 C.F.R. § 204.5(k)(2). In addition, SCOPS determined that the record was insufficient to establish the Petitioner merits a discretionary national interest waiver of the job offer requirement. Our decision will begin with an analysis of whether the Petitioner's proposed endeavor meets the first prong of the *Dhanasar* framework.

A. Substantial Merit and National Importance

SCOPS determined the Petitioner's proposed endeavor is of substantial merit but not of national importance as contemplated by *Dhanasar*. *Dhanasar*, 26 I&N Dec. at 889. The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. The term "endeavor" is more specific than the general occupation; thus, a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual. As such, we will first identify the Petitioner's endeavor as shown in the record and then evaluate the Petitioner's evidence in support of the endeavor's substantial merit and national importance.

The Petitioner's proposed endeavor is to establish a software development company in the United States where he will serve as its software development and application project manager. As described in his Form I-140 petition, his job duties would include directing and managing software development projects. The Petitioner explains that because software project management plays a crucial role in ensuring that software projects are completed in time, within budget and to the required quality standards, his endeavor is of substantial merit. Finally, because the Petitioner has established two companies in China, through which he claims to have carried out many successful projects, he asserts that his experience will enable him to "research and develop smart cities, smart villages, artificial intelligence, green and sustainable technologies," among other related initiatives in the United States, and that this makes his endeavor of national importance.[2] As an endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education, we agree with SCOPS' conclusion that the proposed endeavor has substantial merit.

[2] While we will not discuss all aspects of the Petitioner's business plan or every document submitted in his petition and on appeal, we have reviewed each one for relevance, probative value and credibility, consistent with the precedent decision in *Matter of Chawathe*, 25 I&N Dec. 369.

We turn now to the issue of whether the proposed endeavor is of national importance, as contemplated by *Dhanasar*. 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 specific endeavor that the foreign national proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we explained that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance . . ., 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.* 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 must demonstrate the national importance of his specific proposed endeavor - to establish a software develop company where he will work as a software development and application project manager - rather than the national importance of the field of software development and application or project management.

In *Dhanasar*, we highlighted the distinction between substantial merit and national importance by explaining that even if, for example, teaching a STEM subject has substantial merit in relation to U.S. educational interests, the duties of a STEM teacher in a classroom would not necessarily be of national importance because the impact that would flow from the teacher's activities would not sufficiently impact the field of STEM education more broadly (beyond the students sitting in the classroom). *Dhanasar*, 26 I&N Dec. at 893. Likewise, here, and for the reasons explained below, the record does not establish that the Petitioner's software development and application project management services for his proposed company would impact the U.S.'s employment opportunities or the larger business ecosystem, more broadly, at a level commensurate with national importance. *Matter of Chawathe*, 25 I&N Dec. at 375-76 (standing for the proposition that to establish a petitioner's burden, we consider not only the quantity, but also the relevance, probative value, and credibility of the evidence.)

SCOPS determined that the evidence does "not sufficiently show how [the endeavor will] extend beyond the immediate vicinity of the persons or entities utilizing [the Petitioner's services and products.]" On appeal, the Petitioner asserts that SCOPS erred by overlooking the potential prospective impact of his proposed endeavor to create employment opportunities, contribute to technological progress, and promote economic development and social security in rural areas. The Petitioner emphasizes that his endeavor has the significant potential to employ U.S. workers or bring other substantial positive economic effects, particularly in economically depressed areas as contemplated by *Dhanasar*.

To establish his claims, the Petitioner provided six letters of reference from a university professor, business executives, and a software engineer who all claim to be familiar with the work of the Petitioner's companies in China. In addition, his RFE response included an explanation of his past projects which he asserts led to technological competitiveness, improved public safety, economic growth, sustainable environmental improvements in China, and which render his endeavor of national importance to the United States.

As to the provided letters, on the whole, they explain the Petitioner's work has led to "technological breakthroughs" such as his "Electric Bicycle Charging Station." According to these letters, this project led to improved public safety and promoted "green travel." Another highlighted project is the "Smart

and Safe Community," which the Petitioner developed on behalf of the [redacted] municipal government. This project is described as "involv[ing] the information management of people, vehicles and houses, and monitoring of suspicious persons and vehicles." According to the letters, this project led to technological advancements and improvements in community safety, management efficiency, a greater sense of security, emergency response and construction of a smart city.

A third highlighted project is the "Smart Agriculture in Aviation Food Industry Park," which was developed by the Petitioner for the [redacted] Aviation Food Industrial Park. The project involved "10 agricultural production enterprises and more than 100 agricultural production greenhouses," and the use of "equipment to monitor the production process . . . to ensure that production . . . is reasonable and compliant and provide green, organic and safe food for aviation enterprises." According to the reference letter, the project achieved its goals of improving agricultural production and product quality, ensuring the safety and compliance of agricultural products all while meeting the quality standards of the aviation industry. In addition, the writer claims that the Petitioner's project led to improvements in resource utilization and market competitiveness for agricultural production as well as technological improvements in environmental monitoring, ensuring real time data analysis of the environment, air and soil quality, and transparency and traceability of the production process, which benefited farmers. The reference letters also emphasize not only the success of the individual projects undertaken in China but also the application of the Petitioner's skills and experience to future projects he may carry out in the United States.

As it relates to his interest in employing the [redacted] at scale, his recommendation letters highlight that the Petitioner constructed a "smart village" in [redacted] which improved grassroots management, public services and information acquisition, and led to other technological developments in rural areas. The Petitioner is described as having "excellent organizational skills and leadership" and showing "teamwork spirit" and attest to him having "successfully led the team to complete many complex software development projects." One writer also highlights the Petitioner's duties on these projects as making detailed project plans, which means "rationally allocating resources, effectively managing progress and risks, and ensuring that projects are delivered on time and meet high quality standards."

An associate professor at [redacted] describes meeting the Petitioner during the "smart village" project and corroborates that the Petitioner is an "expert in the fields of information software construction, intelligent Internet of Things hardware development and application, and Internet promotion." In terms of their collaboration in "smart village," the professor explains that the Petitioner was the general manager for the project and responsible for "overall function design, hardware function design, data security supervision and other work of the project" and led the designers to be "responsible for the file module, agricultural product price monitoring and forecasting module, home intelligent terminal software and hardware, and intelligent house number hardware." The scale of the project was described as encompassing 30 villages and 53,000 people. The purpose of the project was to realize 100% electronic management of the original paper documents, personnel information, family information, vehicle information, notice announcements, among other duties. According to the professor, a similar smart village project in the United States would lead to several broad-based impacts, such as improved efficiency of rural management, enhanced information acquisition for farmers, promotion of the development of the agricultural industry, promotion of rural

"informatization" construction, promotion of agricultural science and technology innovation, improved public services for rural communities, and economic development for rural communities.

Overall, as detailed above, the letters corroborate the Petitioner's claims that his prior work informs the potential impact his endeavor could have in promoting economic development and technological innovation and the development of a digital economy in the United States. However, to the extent these letters describe the Petitioner's past accomplishments, this information would be relevant to our analysis of *Dhanasar's* second prong, where we consider whether a petitioner is well-positioned to advance the proposed endeavor. *Dhanasar*, 26 I&N Dec. at 890 (stating that the second prong shifts the focus to the alien and considers factors such as "the individual's 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.")

Moreover, while we have considered the contents of these letters, which help establish that his endeavor is of substantial merit as contemplated by *Dhanasar*, because none of the writers are able to knowingly speak to the impacts of the Petitioner's proposed endeavor in the United States, they are insufficient to establish his endeavor's national importance, by a preponderance. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (standing for the proposition that we may, in our discretion, use opinion statements submitted by a petitioner as advisory, but where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that opinion.)

As to the Petitioner's claims that his endeavor will lead to economic and technological innovation, and job creation, he does not describe in sufficient detail for us to evaluate, the number of jobs he proposes to create, the caliber of any jobs he proposes to create or what the economic impact from those jobs might be in order to establish his endeavor's national importance. Our policy guidance related to entrepreneurial endeavors allows us to consider job creation and the benefits to the economy of a new business enterprise, however "broad assertions" regarding these potential benefits "will not establish an entrepreneur's qualification for a national interest waiver." *See generally*, 6 *USCIS Policy Manual* F.5(D)(6), https://www.uscis.gov/policy-manual. As it relates to the standard for national importance under *Dhanasar's* first prong, our guidance explains that "solely . . . opening a consulting firm for those working or seeking to work in a nationally important occupation" cannot necessarily establish the national importance of that endeavor. *Id.* Similarly, here, establishing a software development and application business in the United States, which is not sufficiently defined, cannot alone establish national importance under our policy guidance and *Dhanasar*.

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. *See Matter of Dhanasar,* 26 I&N Dec. at 889. The Petitioner's statements reflect his intention to impact a broad range of areas such as national security, technological advancement, social development, education and talent development as well as the U.S.'s global leadership. However, while we have considered the Petitioner's assertions, they are insufficient to establish the endeavor's national importance by a preponderance. *See Matter of Chawathe*, 25 I&N Dec. at 375-76.

In sum, the Petitioner has not demonstrated, by a preponderance of the evidence, that the specific proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. And, while the Petitioner may have expertise and relevant experience in a similar endeavor in China, as we explained in *Dhanasar*, "an individual cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his field of expertise." *See Matter of Dhanasar*, 26 I&N Dec. at 886 n.3. For the reasons stated above, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework because he has not established it is of national importance.

B. The Petitioner's Eligibility for EB-2 Classification and *Dhanasar's* Second and Third Prongs

As the Petitioner has not established the national importance of his proposed endeavor, we decline to reach and hereby reserve the Petitioner's arguments regarding his eligibility for EB-2 classification, as an alien of exceptional ability as well as whether he has established his eligibility under the second and third prongs of the *Dhanasar* framework. *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not demonstrated that he is eligible for or otherwise merits 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.