U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40164430

Date: FEB. 10, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an Information Technology (IT) specialist and entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or 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 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's proposed endeavor is to work as an IT specialist and chief executive officer, driving his company's operations and serving U.S. businesses and organizations with enterprise architecture services, and System Applications and Products (SAP) transformation advisory, value and performance management, and SAP center of excellence services. He intends to integrate traditional operational processes with SAP technologies, including its enterprise resource planning (ERP) software, which integrates different business functions such as finance, sales, and human resources, to impact the business operations field in the U.S.

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 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' erred in its analysis, as the national importance of his proposed endeavor is supported by the record. The Petitioner argues that the goals of his proposed endeavor align directly with the federal government's priorities, which recognize ERP systems, cloud computing, and integrated IT management as essential to national resilience. However, 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

[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).

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 endeavor responds to the national shortages of science, technology, engineering, or mathematics (STEM) professionals. However, the alleged shortage of occupations or occupational skills does not render his proposed endeavor nationally important under the *Dhanasar* framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner also asserts that his company, by providing SAP and ERP consulting, will address a well-documented national need for improved digital infrastructure, operational efficiency, and data-driven management in the public and private sectors and his business model enables companies to manage digital transformation in scalable, replicable ways. 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 how his business model improves upon those processes already available to corroborate his arguments and demonstrate his company's efficiencies and processes would have global or national implications beyond the individuals or entities using them.

The Petitioner also argues that his company will impact a vital segment of the U.S. economy by fostering job creation, and economic growth across industries. He refers to his business plan in support of his assertions that his company is, for example, forecasted by year five to employ 52 direct STEM workers, with an overall employment impact of 112 jobs, payroll exceeding $4.2 million, and over $2.9 million in paid taxes. However, the Petitioner does not present any supporting evidence, corroborating the projections and figures presented in the business plan to demonstrate how his claimed tax revenue and employment projections, even if credible, plausible, and substantiated would have significant potential to impact job creation and economic growth, either regionally or nationally to be understood to have national importance as contemplated by *Dhanasar*. *Id.* at 890.

We note that the Petitioner's appeal brief also asserts that his endeavor will enhance societal welfare by establishing career development programs aimed at underprivileged youth, which will bridge the digital divide to empower at-risk populations to participate in the digital economy. However, these assertions are raised by counsel for the first time on appeal, not accompanied with further details on how his proposed endeavor will enhance societal welfare, and not corroborated by the record. Counsel's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight").

Based on our de novo review, 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 the Petitioner had not established he was well-positioned to advance his proposed endeavor under *Dhanasar's* second prong, or that, on balance, waiving the job offer requirement would benefit the United States under *Dhanasar's* third prong. SCOPS, however, did not determine whether the Petitioner was eligible for the underlying EB-2 visa classification. 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 for the EB-2 classification and 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.