U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40102563

Date: FEB. 12, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an attorney, 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 record did not establish that the Petitioner is eligible for a national interest waiver as a matter of discretion. 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 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:

- 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 proposes to operate an advisory firm which will provide legal services, technology solutions, and training opportunities. SCOPS determined that the Petitioner established her eligibility for the EB-2 classification as a member of the professions holding an advanced degree.[2] However, SCOPS further concluded that the Petitioner did not establish eligibility for a national interest waiver. On appeal, the Petitioner contends that SCOPS erred in this determination. We conclude that the record does not establish the Petitioner's proposed endeavor is of national importance and therefore she is not eligible for a national interest waiver as a matter of discretion.

A. The Record Establishes the Proposed Endeavor Has Substantial Merit

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.* The Petitioner's proposed endeavor is to operate an advisory firm which will provide immigration legal services, and technology solutions and training opportunities for small law firms and legal professionals. The Petitioner plans to incorporate artificial intelligence (AI) into her legal practice as well as provide technological consultations to other firms to improve their operational efficiency. The record includes articles about AI, its use in the legal profession, and government initiatives in support of AI and reducing barriers to effective legal representation. We conclude the Petitioner's proposed endeavor has substantial merit.

B. The Record Does Not Establish the Proposed Endeavor is of National Importance

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* SCOPS determined that the Petitioner did not establish the broader implications of her proposed endeavor and therefore she did not establish its national importance. On appeal, the Petitioner asserts that SCOPS did not fully understand her proposed endeavor and its

[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).

[2] The Petitioner is an attorney who submitted evidence of a master of law letters degree from [redacted]. In addition, the record contains diplomas, transcripts, and an academic evaluation as evidence of the Petitioner's foreign equivalent to U.S. bachelor's and master's degrees in legal studies and a PhD in labor law. SCOPS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree and we agree.

national importance. Upon review, we too conclude that the Petitioner's proposed endeavor does not meet the standard for national importance set forth in the *Dhanasar* framework.

As stated above, the Petitioner proposes that her advisory firm will provide immigration legal services and incorporate AI-powered tools into her practice. The Petitioner will also provide technological consultations to small law firms to help them incorporate similar tools into their work. In addition, she seeks to provide workforce development initiatives to other legal professionals. Her work will focus on the intersection of law and technology; specifically, AI and relevant ethical considerations when used in the legal setting. *Dhanasar* states that an 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. *Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner contends that her endeavor will improve "national access to justice through affordable legal and technology-driven services, particularly for underserved individuals and small law firms." Further, she asserts that her endeavor will "advance[e] the digital transformation of the legal sector" and "support the ethical and informed adoption of legal technologies across the profession." She states that her work will improve operational efficiency, accessibility, and affordability in legal services and drive innovation to help modernize the U.S. legal system. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. The record contains the Petitioner's personal statement, business plan, letters of support, and articles about the use of AI in the legal profession and evidence of related government initiatives. However, the record does not contain sufficient evidence to support the Petitioner's assertions of the national or global impact of her proposed endeavor on AI or the legal field. 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. *Matter of Dhanasar*, 26 I&N Dec. at 893. Similarly, without additional evidence of the broader implications of her proposed endeavor, the record establishes the impact of her proposed endeavor is limited to her clients or those who use her services.

The Petitioner contends that her proposed endeavor is of national importance, in part, because it aligns with government initiatives. She provides evidence of the U.S. government's emphasis on the advancement of AI and articles about the use of AI in the legal profession. In addition, she includes information on the Department of Justice's work in expanding access to legal assistance and accelerating innovation to "improve fairness and efficiency in legal systems." While this evidence supports the Petitioner's statements about government support in the advancement of AI and its use in the legal profession, it does not further the Petitioner's claim of her proposed endeavor's national importance. As stated above, in determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. While we acknowledge the importance of the fields the Petitioner proposes to work in and the merit of the Petitioner's work in these fields; the relevant question is not the importance of the field in which the individual will work; instead, we focus on the "the specific endeavor that the [Petitioner] proposes to undertake *Id.* Here, the Petitioner improperly relies upon the importance of the industry to further establish the national importance of her proposed endeavor. Without sufficient documentary evidence of the specific proposed endeavor's broader impact on the industry, the Petitioner's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

On appeal, the Petitioner highlights a letter of support in the record that states the author intends on collaborating with the Petitioner on her proposed endeavor. However, this letter emphasizes the challenges in integrating AI into the legal field and the Petitioner's role in their project; not the broader implications of the Petitioner's proposed endeavor. Further, the record contains other letters from individuals who have adopted or are interested in adopting the Petitioner's "technology system." However, it is unclear if they refer to a future system that would be part of her proposed endeavor, or a technology system called [redacted] which appears to be a case management system the Petitioner previously developed. Whether it is interest in a future technology system, or the use of [redacted] these letters would be more appropriately considered under a prong two analysis. Evidence of the Petitioner's past success and experience in developing [redacted] is relevant to *Dhanasar's* prong two analysis, on whether the petitioner is well-positioned to advance the endeavor. It does not establish the national importance of the proposed endeavor as its focus is on the Petitioner's qualifications and not the endeavor's prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. In addition, if the letters are evidence of interest in a technology system the Petitioner will create in the future; this evidence is more appropriate to discuss under a prong two analysis as it could be evidence of interest or support from potential customers, users, investors, or other relevant entities or persons. *Id.* at 890. Therefore, as the letters in the record do not discuss the prospective impact of the Petitioner's proposed endeavor, they do not further establish the national importance of her proposed endeavor.

Dhanasar states that an 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.* The Petitioner states that her company will have 6 employees in its first year of operation and will employ 16 individuals by the fifth year. The business plan further projects that in its fifth year, the company will create 32 indirect jobs and have over $1.6 million in revenue. However, the record does not provide evidentiary support for the stated financial projections to demonstrate how these numbers were calculated, details regarding the basis for these projections, or adequately explain how these staffing and revenue targets will be realized. As previously stated, a petitioner must support assertions with relevant, probative, and credible evidence. *Matter of Chawathe,* 25 I&N Dec. at 376. Without further explanation of the basis for these projections, we cannot assess whether the stated estimates are credible. Further, the record does not demonstrate the direct creation of 16 additional jobs will have a substantial economic benefit commensurate with the national importance element of the first prong of the *Dhanasar* framework. In addition, there is insufficient information about the 32 indirect jobs. For example, the record includes information about how this number was calculated using a multiplier; but does not discuss how the Petitioner's proposed endeavor will create these jobs, what types of jobs will be created, or where they will be located.

Furthermore, the Petitioner asserts that her proposed endeavor "supports economic revitalization" as her advisory firm will be headquartered in Florida and she will "participat[e] in [the] Opportunity Zones program, creating direct and indirect employment, sourcing materials locally, and contributing to education, infrastructure, and healthcare initiatives." While the Petitioner provided information about the opportunity zone program, the Petitioner has not offered sufficient evidence that her business will be located in an opportunity zone, participate in the program, or how it will impact an opportunity zone community in a way that could result in "substantial positive economic effects." The Petitioner has not provided evidence that the area where her company will operate is economically depressed, that it would employ a significant population of workers in that area, or that her endeavor would offer

the region or its population a substantial economic benefit through employment levels or business activity. While the intention is meritorious, the Petitioner has not provided corroborating evidence to support the claims of her proposed endeavor's economic impact through independent and objective evidence. The Petitioner's statements are not sufficient to demonstrate her endeavor has the potential to provide these benefits to the United States. The Petitioner must support his assertions with relevant, probative, and credible evidence *Matter of Chawathe,* 25 I&N Dec. at 376. Here, we conclude that the record does not establish the staffing levels, business activity, or location of the company stand to provide the economic impact *Dhanasar* requires. Therefore, the record does contain sufficient evidence that the proposed endeavor has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed and therefore the record does not establish the proposed endeavor's national importance. *Matter of Dhanasar,* 26 I&N Dec. at 890.

While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, remaining *Dhanasar* prongs. *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

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that she 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.