U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35760581

Date: FEB. 25, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a physical therapist, 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 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:

- The proposed endeavor has both substantial merit and national importance;

[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 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

The Petitioner seeks to work in the United States as a physical therapist while also operating his own clinic, [redacted]. SCOPS determined that the Petitioner qualified for the underlying EB-2 classification as an advanced degree professional. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

In denying the petition, SCOPS acknowledged that the Petitioner's proposed endeavor has substantial merit, but concluded that the Petitioner did not establish the proposed endeavor's national importance, that he is well positioned to advance it, and that, on balance, it would benefit the United States to waive the job offer requirement. On appeal, the Petitioner asserts that SCOPS "did not apply the proper standard of proof"; instead, imposed "a stricter standard, and erroneously applied the law" to his detriment. He maintains that he has provided "relevant, probative, and credible evidence," which demonstrate that he merits a discretionary waiver of the job offer requirement in the national interest. The record includes a resume, a business plan, and employment offer letters, as well as industry reports and articles on the healthcare field, particularly regarding the shortage of physical therapists. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

The Petitioner states that his clinic will offer in-home care, physical therapy, speech therapy, and nursing services to individuals who cannot afford these services. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of the Petitioner's work. The relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on "the specific endeavor that the [petitioner] proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *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, while the Petitioner's endeavor may have merit, the evidence does not establish that working as physical therapist or operating a healthcare clinic will have broader implications or influence in the healthcare field that will rise to the level of national importance.

The Petitioner claims that his endeavor is of national scope and "will produce significant national benefits, due to the ripple effects of his professional activities." The Petitioner also claims that he expects to hire 33 employees by the fifth year, including 24 full-time staff, four part-time, and five contractors. He also projects that his business will generate a total revenue of $10,758,326 and a net income of $5,903,706 by the fifth year. However, the Petitioner does not provide sufficient detail regarding the

basis for these projections or adequately explain how the proposed staffing targets and revenue forecasts will be reached. We are also not persuaded by the Petitioner's claimed intention to establish his proposed endeavor within a Small Business Administration (SBA) designated HUBZone in [redacted], Florida. Since the Petitioner has not adequately established what parameters the SBA considers when it establishes HUBZones, we cannot evaluate whether these SBA-identified underutilized business zones are akin to the types of economically depressed areas within which creating employment could be a potential positive economic effect.[2]

The Petitioner further states that he currently works as a clinical assistant at [redacted], where he provides "outpatient services." At the same time, he indicates that he will be operating his company and plans to expand into other states and cities within the country. Nonetheless, the Petitioner does not sufficiently demonstrate how he will accomplish these objectives. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to his future work, the record does not show that the benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *See Dhanasar*, 26 I&N Dec. at 890.

The Petitioner emphasizes the shortage of physical therapists in the United States and stresses their significant contributions to "rehabilitative programs aimed at improving mobility." Though we acknowledge the Petitioner's desire to contribute to the healthcare field, the Petitioner has not provided sufficient evidence that his specific endeavor would resolve the shortage or that his endeavor would stand to provide substantial economic benefits in the United States. Although the Petitioner's endeavor may address needs in the healthcare field, the record does not establish that the endeavor will have a measurable impact beyond the Petitioner's patients and employees to reach the level of national or even global impact. 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. *Id.* at 893. Here, the record lacks adequate corroborating evidence that the Petitioner's proposed endeavor offers broader implications in his field or substantial positive economic effects for the country that rise to the level of national importance.

Furthermore, the Department of Labor (DOL) has addressed the shortage of physical therapists by designating physical therapy as a Schedule A occupation, indicating that there are insufficient U.S. workers able, willing, qualified, and available for physical therapist positions. 20 C.F.R. §§ 656.5, 656.25. *See generally* 6 *USCIS Policy Manual* E.7(C), https://www.uscis.gov/policy-manual.

[2] The HUBZone program's goal is to promote business growth in underutilized business zones by awarding 3% of federal contract dollars to companies that are HUBZone-certified. Joining the HUBZone program makes a business eligible to compete for certain federal contracts in the "set-aside" category. There are several required qualifications to participate in the program, but the most dispositive requirement for purposes of our analysis is that the business seeking to participate in the HUBZone program must be at least 51% owned by U.S. citizens, a community development corporation, an agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe. While it is unknown and the record is silent as to whether any federal programs exist in the "set-aside" category for endeavors like the one the Petitioner proposes, it appears as though the Petitioner's proposed endeavor would be wholly owned and controlled by the Petitioner and that the Petitioner is not a U.S. citizen, a community development corporation, an agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe. We therefore question whether the Petitioner would even be eligible to participate in the HUBZone program.

Schedule A designation exempts petitioning employers of physical therapists from the requirement of testing the labor market and applying for a permanent labor certification with DOL. 20 C.F.R. § 656.25. However, this is not a waiver of the job offer requirement and does not support a finding that working in the field of physical therapy inherently has national importance in the context of a national interest waiver.

For the aforementioned reasons, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework. Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the second and third prongs outlined in *Dhanasar*. *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, and he does not meet the first prong of the *Dhanasar* analytical framework. Consequently, the Petitioner has not demonstrated that he is eligible for or merits a waiver of the job offer and labor certification requirements in the national interest 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.