U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40735163

Date: JAN. 05, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur, seeks classification as a member of the professions holding an advanced degree. *See* section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this employment based second preference (EB-2) classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that a waiver of the required job offer, and thus of a 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 states that he has more than 35 years of experience in mining, as well as extensive business and entrepreneurial experience, including the founding and managing a variety of businesses. He explained that his company, [redacted], is a "startup specializing in business management consulting with a focus on the mining sector" and it offers: mining project consulting; operational cost reduction and process optimization; lifetime management of crushing truck fleets; integration of advanced digital tools; and, human resource and turnaround management for struggling companies.

The Director determined that while the Petitioner established that the proposed endeavor has substantial merit, he did not establish that the proposed endeavor is of national importance as set forth under the first prong of the *Dhanasar* analytical framework. We agree, for the reasons explained below.

On appeal, the Petitioner submits a brief that reiterates arguments concerning the purported national importance of the proposed endeavor. The standard of proof governing immigration benefit requests is "preponderance of evidence." *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met their burden under the preponderance standard, we evaluate whether a petitioner's claims are "more likely than not" or "probably" true, but also consider the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

On appeal, the Petitioner reasserts that his proposed endeavor has national importance because it aligns with multiple U.S. national interests, particularly in advancing infrastructure and energy priorities, which the Petitioner contends require mining. The Petitioner also states that the 2022 National Science and Technology Council's Critical and Emerging Technologies List recognizes sustainable resource management and advanced engineering materials which are aligned with his proposed endeavor and its process innovations that reduce limestone crushing from four to two stages. While the record shows the Petitioner works in areas aligned with national interests, our assessment of national importance does not focus on the importance of a field or issues impacting a field in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. The submitted articles, reports, and Critical and Emerging Technologies List do not directly address the Petitioner's specific proposed endeavor, including how his future work might impact these areas more broadly.

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that

the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. As it relates to the Petitioner's experience and ability claims, those relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id*. at 890. Moreover, the Petitioner must establish the national importance of his business rather than the importance of the mining industry. Further, "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*. The broader implications of the proposed endeavor, national and/or international, can inform us of the proposed endeavor's national importance. That is not to say that the implications are viewed solely through a geographical lens. Broader implications can reach beyond a particular proposed endeavor's geographical locus and focus. The relevant inquiry is whether the broader implications apply beyond just narrowly conferring the proposed endeavor's benefit. And 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.

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. While the Petitioner's statements reflect his intention to provide valuable mining services for his clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of national importance because they would not impact his field more broadly. *Id*. at 893. Although the Petitioner contends that his endeavor will "generate true economic value added (EVA) – wealth creation that exceeds costs, expenses, and capital returns – ensuring broad economic benefits beyond private profitability," the Petitioner did not provide sufficient documentation or information to show that his proposed endeavor will generate EVA and to show that it in fact will make an impact in the mining industry. Further, the record does not establish the Petitioner has plans to introduce novel methodologies or techniques that may be disseminated to or adopted by others operating in the field or industry. Although the Petitioner claims that his proposed endeavor will include process innovations that reduce limestone crushing from four to two stages, he does not explain if this is a novel technique and whether it will be disseminated to or adopted by others.

Here, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his clientele to impact the mining services industry, or the U.S. economy more broadly at a level commensurate with national importance.

In *Dhanasar,* we 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." *Matter of Dhanasar*, 26 I&N Dec. at 890. On appeal, the Petitioner states that he plans to expand the business beyond Florida and operate in underutilized business zones identified by the Small Business Administration's HUBZone program."[2] However, the Petitioner has not demonstrated that his business meets the requirements

[2] The HUBZone program promotes business growth in underutilized business zones with the goal of awarding three percent of federal contract dollars to companies that are HUBZone certified. *See* https://www.sba.gov/federal-contracting/contracting-assistance-programs/hubzone-program. Operating a business in an HUBZone offers several

for HUBZone certification. Further, to the extent that the Petitioner is trying to equate his business being in a HUBZone with *Dhanasar's* emphasis on job creation and economic effects in an "economically depressed area," the evidence does not establish the company's ability to qualify for HUBZone certification, nor does it sufficiently explain how merely locating an office in a HUBZone qualifies as "substantial positive economic effects, particularly in an economically depressed area." And, even if the Petitioner's business were to yield new jobs in a HUBZone location (a fact he has not established), the economic impact from this potential hiring is too amorphous to be considered of national importance as contemplated in *Dhanasar*. *Id.* at 890.

Finally, we agree with the Director's conclusion that the Petitioner did not establish that his endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* In the business plan, the Petitioner indicated that by the fifth year of operations he intends to create 33 direct jobs in consulting, administration, and management, and 165 indirect jobs through demand for goods, logistics, and services. In addition, the Petitioner stated that the proposed endeavor will pay $548,702 in tax contributions in public offers in the first five years. However, the business plan does not provide sufficient explanation for the basis of these projections. In addition, the Petitioner does not elaborate on the 33 direct and 165 indirect jobs he anticipates his company will create, such as the type of jobs those would be, the breakdown of part-time versus full-time positions, and where they would be created. Even if the endeavor's revenue and job creation projections were more than conjecture, they do not establish that the endeavor would operate on a scale rising to the level of national importance, as the Petitioner has not explained how these proposed employment numbers and revenue will impact the area of intended operations, nor has he provided evidence that his business operations will impact an economically depressed area. Further, the Petitioner stated that the company will expand beyond Florida and into other states. However, the plan does not provide sufficient detail of the basis for these projections or adequately explain how these sales and staffing targets will be realized. The Petitioner must support her 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 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*. *Id.* at 890.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of his specific proposed endeavor and does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of his eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach").

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advantages including eligibility for federal contracting preferences, access to set-aside contracts, and potential tax incentives. *Id.* Businesses seeking HUBZone certification must ensure that their business is owned and controlled by U.S. citizens, a community development corporation, an agricultural cooperative, or an Indian tribe. *Id.* Further, the business' principal office must be located in the designated HUBZone, and it must be the location where the greatest number of employees perform their work. *Id.*

III. CONCLUSION

As the Petitioner has not met the *Dhanasar* analytical framework's requisite first prong, we conclude that he has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

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.