U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40797083

Date: JAN. 09, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur in the field of language education, 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 the Petitioner did not establish that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The matter is now before us on appeal. 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. Once a petitioner demonstrates eligibility for the underlying 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. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. *Matter of Dhanasar,* 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states 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

[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 to be discretionary in nature).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

In the decision denying the petition, SCOPS concluded that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree.[2][3] The issue on appeal is whether the Petitioner qualifies for the national interest waiver. SCOPS determined that while the Petitioner established meeting the second prong of the *Dhanasar* analytical framework, he did not demonstrate meeting the first *Dhanasar* prong.[4] Upon de novo review, we agree with SCOPS' determination that the Petitioner did not demonstrate that his proposed endeavor is of national importance under *Dhanasar's* first prong.[5]

The Petitioner proposes to establish a language education and cultural immersion training business, for which he would be its chief executive officer. The Petitioner indicates his business intends to provide its language education and cultural immersion training services to U.S. residents, including immigrants and students with study visas; educational institutions; and owners and employees of small to medium-sized businesses. His business' services would focus to improve English language skills through tailored courses emphasizing practical language use; aid in integration and adaption to American culture; and promote cultural diversity with community initiatives, including scholarship programs for underprivileged students and multicultural community events. The Petitioner intends to establish the business in Florida with future plans to expand the business to other locations across the United States, with each region having customized language and cultural programs based on location needs. By improving English language skills and cultural immersion, the Petitioner claims his business would enhance job prospects for non-English speaking residents, thereby contributing to U.S. economic growth through a reduction in labor shortages in high-demand industries and a reduction in economic inefficiencies linked to workers and students having limited English proficiency.

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[2] SCOPS' determination that the Petitioner qualifies as a member of the professions holding an advanced degree was based solely on his academic credentials from a foreign academic institution being the foreign equivalent of a U.S. bachelor's degree followed by five years of progressive experience in the same specialty. *See* 8 C.F.R. § 204.5(k)(2). The record, however, does not include evidence that the Petitioner's academic credential is the foreign equivalent of either a U.S. bachelor's degree or above that of a U.S. bachelor's degree. *See* 8 C.F.R. § 204.5(k)(2). Because the record is not sufficiently clear to establish that the Petitioner possesses any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree, or a U. S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty, or otherwise demonstrates he qualifies as an advanced degree professional, he would need to address this deficiency in any future proceedings where that is required to establish eligibility. *See* 8 C.F.R. § 204.5(k)(2).

[3] The Petitioner claimed to qualify for the EB-2 classification as an individual of exceptional ability. *See* 8 C.F.R. § 204.5(k)(2). Because we agree with SCOPS' conclusion that the Petitioner has not demonstrated his proposed endeavor is of national importance under *Dhanasar's* first prong, and this is dispositive of the Petitioner's appeal, we need not consider the Petitioner's claim as to EB-2 qualification in the first instance. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

[4] SCOPS did not address whether, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification under the third prong of *Dhanasar*.

[5] While we may not discuss every document submitted, we have reviewed and considered each one.

The first prong of *Dhanasar*, 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. We agree with SCOPS that the record shows that the Petitioner's proposed endeavor to work as the chief executive officer for his new language education and cultural immersion training business has substantial merit.

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 "the specific endeavor that the foreign national proposes to undertake" and evidence documenting the "potential prospective impact" of the proposed endeavor. *Matter of Dhanasar,* 26 I&N Dec. at 889. Here, the Petitioner has not sufficiently detailed his specific proposed endeavor or provided evidence demonstrating its potential prospective impact is commensurate with national importance, including the asserted broad impact on his field, job creation, the U.S. and Florida economies, societal welfare, and national initiatives.

On appeal, the Petitioner contends that SCOPS erred in its decision by not appropriately considering the evidence in accordance with the *Dhanasar* analytical framework. In SCOPS' consideration of his endeavor's national importance, he claims that SCOPS erroneously required he show "current nationwide influence and established impact across the United States." Instead, he argues that SCOPS should have focused on his endeavor's "prospective impact on the field of immigrant workforce integration and national economic growth." He maintains his proposed educational initiative is of national importance because it aligns with national policy initiatives which support immigrant integration, workforce development, and economic growth. Because his endeavor would enhance English proficiency and cultural immersion, the Petitioner claims his endeavor "directly enhances labor force participation, mitigates systemic economic inefficiencies, and supports workforce integration on a national scale." By doing so, he argues that his endeavor "addresses a systemic national challenge," which is "precisely the type of systemic problem that *Dhanasar* recognized as meeting the national importance prong." In addition, the Petitioner claims that SCOPS imposed an evidentiary standard higher than preponderance of the evidence and that the evidence in the record, including his business plan, economic projections, national data, and policy alignment, clearly demonstrates by a preponderance of the evidence that his proposed endeavor is of national importance.

The standard of proof in this proceeding is a preponderance of the evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met their burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *See id.*; *see also Matter of E-M-*, 20 I&N Dec. 77, 79- 80 (Comm'r 1989). Here, SCOPS' decision reflects a reasoned consideration of the evidence, summarizing the Petitioner's proposed work establishing a new language education and cultural immersion training business as his intended endeavor, acknowledges and analyzes documents submitted, and weighs the evidence but determined that the evidence lacked probative value. *See Matter of Chawathe*, 25 I&N Dec. at 376. The proposed endeavor, as described, and the evidence in the record do not support the Petitioner's assertions that the potential impact of his endeavor would have a broader impact on his field or implications rising to a level of national importance.

The Petitioner's statements, business plan, and national impact study provide brief descriptions of a broad spectrum of his intended business' services by generally describing his desire to develop individualized language education and cultural immersion training services for non-English speaking residents of Florida with plans to expand his business sometime in the future. The Petitioner, however, does not sufficiently detail such language education and cultural immersion training services or how his endeavor would be different from work typically performed by language education businesses. For instance, the Petitioner indicates he intends to offer "tailored courses for sectors with large immigrant workforces," and "create a national training model capable of consistent replication, addressing fragmentation among local providers." However, he has not provided details of his intended tailored courses and national training model, or established his plans to introduce novel language education advancements that may be disseminated to or adopted by others operating in the field or otherwise articulate how he will contribute to development of our nation's language education industry.

In contrast, the petitioner in *Dhanasar* demonstrated that he conducted research and development in the field of air and space propulsion, more specifically, hypersonic propulsion systems involving speeds above Mach 5, and he had developed a novel method for accurately calculating hypersonic airflow. *Matter of Dhanasar,* 26 I&N Dec. at 891-92. In addition, he submitted evidence reflecting that he would continue his research into designing and developing propulsion systems in nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles and substantial supporting evidence of how his continued research would assist the United States in maintaining its advantage over other nations in hypersonic flight, including documentation reflecting his receipt of funding from a government entity for his research. *Id.* Here, the record does not include the same level of detail and corroborating evidence to demonstrate the Petitioner's proposed endeavor has the claimed potential to substantially impact his field, or otherwise rises to the level of national importance as contemplated by *Dhanasar*.

In *Dhanasar*, we 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.* at 889. 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.

The Petitioner's statements, business plan, and national impact study make broad claims about his endeavor being of national importance; however, his assertions are not supported with sufficient independent and objective evidence. For instance, he asserts his business has the potential to substantially impact the U.S. and local underserved Florida economies by enhancing the quality of the U.S. workforce and attracting international business and foreign direct investment to the Florida region. In addition, he maintains his business has the potential to create teaching and administrative jobs for U.S. workers at his business; address the shortage of workers in industries employing immigrant workers; enhance societal welfare by addressing institutional costs of limited English proficiency which burden schools, hospitals, social services, and legal systems; and impact national initiatives that promote immigrant integration, workforce development, and economic growth. Without sufficient information or insight about his proposed endeavor or corroborating evidence, the Petitioner has not supported his assertions that his business' activities stand to provide the claimed

impacts. The Petitioner's statements are not sufficient to demonstrate his endeavor has the potential to provide the claimed broader impacts. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 l&N Dec. at 376.

The business plan and national impact study maintain that the business will create jobs and have other substantial positive economic effects, such as generating revenue in its underserved Florida community and payment of taxes. The business plan projects that in five years the business will hire 23 direct employees, create approximately 59 indirect jobs, pay over $1.4 million in payroll expenses, and generate over $941,000 in payroll and income taxes. However, the record does not sufficiently detail the basis for its financial and staffing projections, or adequately explain how these projections will be realized. The Petitioner has not supported his assertions with relevant, probative, and credible evidence. *See id*. Even if we were to assume everything the Petitioner claims will happen, the record lacks evidence showing that creating 23 direct jobs and 59 indirect jobs; paying over $1.4 million in payroll expenses; and generating over $941,000 in taxes by its fifth year of business rises to the level of national importance. Also, without sufficient documentary evidence that his proposed job duties as the chief executive officer of his language education and cultural immersion business has the potential to impact his field more broadly, rather than benefiting his business and clients, the Petitioner has not demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance.

While the Petitioner submitted two independent opinions to support his claims of national importance, the opinions mainly discuss the benefits of language education and cultural immersion without focusing on the specific proposed endeavor. The opinions use broad terms when discussing the proposed endeavor and lack details of the business' services. For instance, one opinion describes the endeavor by stating it is a "high-quality language education and cultural training" and that the Petitioner is "creating a comprehensive, practical, and scalable model for language education and cultural integration that facilitates, communication, access to opportunities, and fosters cross-cultural understanding within the [U.S.] society." The opinions, however, do not discuss the details of the proposed high-quality training and comprehensive, practical, and scalable model. Instead, both opinions mainly focus on the need for language education and cultural immersion training in Florida, as well as the benefits to helping individuals become English proficient while generally discussing the U.S. and local economic and social welfare benefits of language education and cultural training. As previously discussed, stating that the Petitioner's work would support an important industry is not sufficient to meet the "national importance" requirement under the *Dhanasar* framework. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988)*; see also Matter of D-R,* 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value).

The Petitioner emphasizes on appeal that his endeavor aligns with matters that the government has described as having national importance or is the subject of national initiatives, namely national policies prioritizing investment in English-language learning and promoting immigrant integration and workforce development in order to strengthen the U.S. economy, national security, and global competitiveness. He maintains his educational initiative "directly aligns with federally recognized policy goals in immigrant integration, workforce development, and economic growth," citing government policies prioritizing English training for immigrant communities in order to reduce labor shortages in high-demand industries and to reduce economic inefficiencies linked to workers and

students having limited English proficiency. The national impact study points out that his proposed business aligns with U.S. policies, including the U.S. Department of Labor's Workforce Innovation and Opportunity Act and the U.S. Department of Education's Title III language acquisition goals. To support his claims, the Petitioner submitted the two previously discussed independent opinions. In both opinions, the authors claim the Petitioner's proposed endeavor would align with national initiatives related to language education and cultural training in the United States, referencing national policies and initiatives promoting English proficiency and cultural competence. The record also includes industry reports and articles relating to the benefits of international investment, language diversity in the United States, cultural and language barriers in the United States, English learner students, foreign direct investments in Florida, growth of Hispanic-owned businesses, economic and innovative development in Florida, the impacts of small businesses on the U.S. economy, and the impact of English proficiency on careers, and the need for English language education services.

We recognize the importance of English language education and cultural immersion training and their related careers, and the significant contributions from immigrants who are employed in the United States; however, merely starting a language education and cultural immersion training business for immigrants and non-English speaking individuals is insufficient to establish the national importance of the proposed endeavor. Moreover, the importance of an industry and a need for workers in a field or industry is not sufficient to meet the national importance requirement under the *Dhanasar* framework. Instead, we focus on the "the specific endeavor that the foreign national proposes to undertake" and evidence documenting the "potential prospective impact" of the proposed endeavor. *Matter of Dhanasar,* 26 I&N Dec. at 889. 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 the field more broadly. *Id.* at 893. Similarly, the record does not demonstrate that the Petitioner's proposed language education and cultural immersion training business has the potential to substantially impact any field or industry, as contemplated by *Dhanasar*: "[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.*

As discussed above, the opinions briefly describe in general terms, without specific details, the Petitioner's intention to establish a language education and cultural immersion business for non-English proficient individuals and the need for such services. While the importance of government initiatives, such as those by the U.S. Department of Education and the U.S. Department of Labor, is not in dispute, their overall significance does not establish the national importance of the Petitioner's proposed endeavor in particular. The Petitioner and the opinions make general statements about the intended business aligning with national initiatives but do not quantify or provide evidence supporting his proposed endeavor's expected impact on such national initiatives. Although the Petitioner has shown that providing support services and language education for English language learners are nationally important issues, he has not demonstrated the potential prospective impact of his specific endeavor to such nationally important matters.

Beyond general assertions, the Petitioner has not demonstrated that the work he proposes to undertake as the chief executive officer of his proposed language education and cultural immersion training business offers original innovations that contribute to advancements in his field or otherwise has potential broader implications rising to the level of national importance. He does not sufficiently

explain or provide evidence demonstrating how his business will contribute to enhancing his field or any other industries. The claimed impacts on national initiatives, job creation, the U.S. and local economies, and societal welfare depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between his proposed work and the claimed results. After considering the totality of the circumstances, the Petitioner has not demonstrated by a preponderance of the evidence that his proposed endeavor is of national importance.

SCOPS determined that while the Petitioner is well-positioned to advance his proposed endeavor under *Dhanasar's* second prong, he did not establish that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification under *Dhanasar's* third prong. Because the documentation in the record does not sufficiently establish the Petitioner qualifies for the first prong of the *Dhanasar* precedent decision, he has not demonstrated eligibility for a national interest waiver. This identified basis for dismissal is dispositive of the Petitioner's appeal, and therefore we decline to reach and hereby reserve the Petitioner's appellate arguments and eligibility under the second and third prongs of *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. at 25; *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

As the Petitioner has not established eligibility under the requisite first prong of the *Dhanasar* analytical framework, he is not eligible for 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.