U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40734360

Date: JAN. 22, 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 Science, Technology, Engineering, and Mathematics (STEM) education, 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 although the Petitioner qualified as an advanced degree professional, he did not establish 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.

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.

Id.

II. ANALYSIS

The Petitioner's proposed endeavor is to establish a computer science coding academy in [redacted] Texas, which will focus "on providing training for teens, women, and Hispanic populations in the Unted States" and the curriculum will include computer programming, machine learning, artificial intelligence (AI), and cybersecurity. The Petitioner explains that his academy will "ensure that women cover at least 50% of each cohort by providing special financial and educational support combined with Sales & Marketing investment focused on this target group" and that it will be implemented as an after-school or after-work curriculum.

A. EB-2 Classification

The Petitioner submitted his foreign master's degree in business administration, along with his academic transcripts. SCOPS determined the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether he qualifies for and merits a waiver of the job offer requirement in the national interest.

B. Substantial Merit and National Importance

The first *Dhanasar* 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.* SCOPS determined that the Petitioner's proposed endeavor was of substantial merit, and we agree. However, SCOPS concluded the Petitioner did not establish that his proposed endeavor has national importance.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we noted that, in assessing national importance, "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.

[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).

On appeal, the Petitioner contends SCOPS ignored USCIS guidance and overlooked evidence including articles and reports about STEM education and U.S. government initiatives promoting STEM, business plan, and letters of recommendation. He asserts that his proposed endeavor "addresses the clear national and nation-wide need for STEM education and STEM-educated workforce." We reviewed the articles and reports submitted in support of the importance of the STEM industry and its impact on the economy. However, merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Id* at 889. Instead, when determining whether the proposed endeavor has 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." *Id.* Thus, while we acknowledge that the STEM industry is important, this factor alone is insufficient to establish the national importance of his proposed endeavor.

The Petitioner also claims his proposed endeavor "will contribute to the U.S. economy by developing a highly skilled workforce in the field of innovative technology including artificial intelligence and machine learning." In support, the Petitioner references his business plan and states that SCOPS ignored "the heart of the purpose of the endeavor," which is "creating a STEM trained workforce, especially in underserved community." However, the job creation and revenue projections included in the Petitioner's business plan are not supported by details showing their basis or an explanation of how those projections will be realized and therefore do not sufficiently corroborate the national importance of his endeavor. Even if the Petitioner had established a sufficient basis for these projections, they still do not establish the national importance of the proposed endeavor. While the projected income statement indicates that the Petitioner's STEM academy has growth potential, it does not demonstrate that the benefits to the regional or national economy resulting from his undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar* to establish its national importance. *Id.* at 890.

Moreover, the Petitioner mentions that there is "a critical national shortage" of STEM professionals in the United States. The record includes the Mathematical and Statistical Modeling Education Act (HR 730) which highlights the critical STEM skill shortage faced nationally. However, the national shortage of STEM professionals is not, in and of itself, sufficient to establish the national importance of the Petitioner's endeavor. Further, the U.S. Department of Labor directly addresses U.S. worker shortages through the labor certification process.

Furthermore, the Petitioner asserts that "[i]n addition to the economic impact, the academy will also promote social welfare, particularly by increasing employability of community members, focusing on underrepresented groups such as Hispanics and women."[2] However, he submits little explanation or evidentiary support as to how his proposed endeavor would impact the Hispanic community and women on a broader level. Likewise, the Petitioner has not sufficiently explained or provided evidence to substantiate that his implementation of STEM educational services would have a potential prospective broader impact on the STEM field in the United States. While the record includes a

[2] On appeal, the Petitioner highlights that "endeavors related to. . . the furtherance of human knowledge may qualify, whether or not the potential accomplishments in those fields are likely to translate into economic benefits for the United States." *Id.* at 889. However, this statement has to do with substantial merit, which, as previously noted, SCOPS concluded that the Petitioner's proposed endeavor has substantial merit.

business plan and support letters from colleagues, they do not articulate how his endeavor in STEM education would extend beyond the company and its students to impact his field more broadly on a level indicative of national importance. For example, one letter asserts that the Petitioner's endeavor "will contribute to filling the STEM employment gap that is evidence across many U.S. industries" and "will offer profound national benefits" but the author does not provide objective support for her conclusions. Therefore, the Petitioner did not sufficiently substantiate that his proposed endeavor stands to result in broader implications at a level commensurate with national importance.

Finally, we also reviewed the letters of recommendation in the record. The authors praise the Petitioner's abilities and the personal attributes that make him an asset in the STEM field. For instance, one letter states that the Petitioner "showed great skill and hard work at Samsung" and he "demonstrated to be a quick learner and to deal with difficult technical and interpersonal situations." Another letter states that the Petitioner's "positive energy and commitment to innovation significantly impacted our team's dynamics and discussions." While the letters evidence the high regard the Petitioner's colleagues have for him and his work, they do not offer persuasive detail concerning the impact of his proposed endeavor or establish how such an impact would extend beyond his students. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

III. CONCLUSION

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address his eligibility under the remaining prongs, and we hereby reserve them. *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 alternate issues on appeal where an applicant is otherwise ineligible). The burden of proof is on the Petitioner to establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that he has not established eligibility for 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 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.