U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37178144

Date: JAN. 23, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, who describes herself as an entrepreneur in the field of civil engineering, 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 EB-2 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 record did not establish that the Petitioner qualified for a national interest waiver. 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 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;
- 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 is discretionary in nature).

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

Id.

II. ANALYSIS

SCOPS concluded that the Petitioner qualifies as an individual holding an advanced degree. She submitted evidence demonstrating that she has the foreign equivalent of a U.S. bachelor's degree in engineering from a university in Brazil and at least five years of subsequent employment as an engineer. The remaining issue to be determined on appeal 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.

The Petitioner's proposed endeavor is to serve as the chief executive officer of a construction management company. She stated that her company would focus on planning, inspecting, and managing both private and public projects, employing "innovative methodologies" to offer affordable and sustainable services. The company, she further stated, would "directly contribute to the modernization and sustainability of American infrastructure," helping to "reduce unemployment and stimulate local economies across the country." She also surmised that her company would "make substantial contributions to national infrastructure, [and] environmental sustainability . . . ."

Although SCOPS determined that the Petitioner's proposed endeavor has substantial merit and that she is well positioned to advance the endeavor, SCOPS concluded the record did not establish that the endeavor is of national importance or that, on balance, waiving the job offer requirement would benefit the United States. On appeal, while the Petitioner asserts that SCOPS "imposed novel substantive and evidentiary requirements beyond those set forth in regulations" by not applying the preponderance of evidence standard, she does not articulate how SCOPS misapplied the standard in denying the petition. As noted above, petitioners must establish that they meet each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I& N Dec. at 375-76. In other words, petitioners must show that what they claim is "more likely than not" or "probably" true. To determine whether this burden under the preponderance standard has been met, we consider not only the quantity, but also 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).

Here, SCOPS properly analyzed the Petitioner's documentation and weighed her evidence to evaluate whether she had demonstrated, by a preponderance of the evidence, that she merits a national interest waiver. Further, although the Petitioner asserts that SCOPS erroneously applied the law, she does not specify how SCOPS erred or what factors in the decision were erroneous.[2] Upon review, for the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of her endeavor.

The first prong, 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

[2] An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(1)(v).

as business, entrepreneurialism, science, technology, culture, health, or education. We agree with SCOPS that the Petitioner's proposed endeavor has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. 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." *Id.* In *Matter of 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.

To demonstrate the national importance of her proposed endeavor, the Petitioner provided information about chief executives, entrepreneurship, and national initiatives concerning infrastructure. Although this material discusses subjects tangentially related to the Petitioner's proposed endeavor, it does not provide sufficient insight into whether her specific endeavor would have a potential prospective impact of national importance. The Petitioner also submitted copies of contracts, letters expressing investment interest, and letters of recommendation discussing her skills and experience. On appeal, the Petitioner cites one such letter from [redacted] highlighting her "exceptional" work—evidence, she states, that her "high efficiency and strategic capabilities . . . translate to the likelihood of a significant positive impact on a national scale."

We note that evidence of business activity, investment interest, and a petitioner's job experience generally relates the second prong of the *Dhanasar* framework,[3] which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. And although the Petitioner emphasizes Mr. [redacted]'s broad claim that she "has contributed greatly to the company and construction management and inspection in Florida," the record does not include evidence to corroborate his assertion. We further note that the contracts and letters do not address whether or how her proposed endeavor stands to extend beyond her business and the interests of her customers to impact the field. *Matter of Dhanasar* contemplates 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." *Id.* at 889. Beyond the Petitioner's general references to her intention to utilize innovative methodologies to pursue her endeavor, the record does not include evidence of specific methods or approaches developed by the Petitioner or explain how their use would have implications for civil engineering, national infrastructure, or another relevant field. As such, the contracts, letters, and documentation discussing entrepreneurship and infrastructure do not sufficiently demonstrate the national importance of the Petitioner's proposed endeavor.

Regarding the Petitioner's specific proposed endeavor, the record includes a business plan. Her business plan points generally to the implied benefits of "strengthening" the construction management

[3] Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* framework, determinations concerning the second and third prongs are unnecessary to the ultimate decision; therefore, they will be reserved in this decision.

industry "and other industries and markets related to its operation," generally "improving the population's quality of life," and "improving the infrastructure of the American people." The Petitioner, however, has not provided an explanation of how her endeavor would reach the level of "substantial positive economic effects" contemplated by *Matter* of *Dhanasar*. *Id.* at 890.

The Petitioner has not explained how her individual construction management company would have a national-level impact by contributing to the modernization or sustainability of the nation's infrastructure. The Petitioner's business plan does not describe how certain technologies utilized by her company would "stimulate the development of competitors" or how her company's activities would result in "improving the population's quality of life." The business plan generally speculates that the company's services would result in significant positive outcomes for the United States, but it does not provide independent evidence or otherwise explain how the company would have a prospective national impact on a specific field or within the economy.

Concerning the company's economic impact, the Petitioner's business plan describes several reasons that her company will benefit the nation, including the generation of direct and indirect jobs and tax revenue. It anticipates hiring over forty individuals, generating a total net income of $2,562,878.56 and paying a total of $680,474.05 in federal taxes within five years. The business plan is not, however, substantiated by a sufficient basis for these projections, nor are the numbers corroborated by probative evidence sufficient to demonstrate that it is more likely than not that the company will have a substantial positive economic effect within any field. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. She has not done so here. The business plan does not demonstrate that the company would have an impact on the construction industry or the U.S. economy at a level commensurate with national importance. In addition, although the Petitioner has indicated that her business would benefit low-income communities, the record does not indicate that the business operates in an economically depressed area or that the endeavor would otherwise have substantial positive economic effects.

While the business plan offers an overview of the services the Petitioner intends to provide, the asserted national importance of her proposed endeavor relies on the role of the construction industry in the national economy and the impacts of construction generally on local economies, communities, and the environment. The relevant question, however, is not the importance of the industry or profession in which the individual will work, but the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar* at 889. The Petitioner's broad vision of her company's impact on the nation is not supported by probative evidence, including any evidence of a cause-and-effect relationship between her company's services and the state of the nation's infrastructure, environmental health, or the economy.

We note that the USCIS Policy Manual addresses specific evidentiary considerations for entrepreneurs.[4] These considerations include the fact that, while USCIS decides each case on its merits, broad assertions regarding general benefits to the economy and the potential to create jobs will not establish an entrepreneur's qualification for a national interest waiver. For example, an individual cannot demonstrate national importance based solely on opening a consulting firm, on seeking work in a nationally important occupation, or on working in a nationally important industry. Here, the

[4] *See* 6 *USCIS Policy Manual* at F.5(D)(6), https://www.uscis.gov/policy-manual.

importance of the Petitioner's business endeavor cannot be established based solely on its existence as a new company or on the company's operation within the construction industry.

The Petitioner has not demonstrated that her proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the nation. While the business plan vaguely explains that her company's services would generate improvements in U.S. infrastructure, the environmental impacts of construction, and the U.S. economy, these asserted national impacts are not sufficiently supported by objective evidence related to her proposed endeavor. It is not clear how a business of the size and scope described in the business plan would have substantial impact by creating the claimed "ripple" effects in the economy. The Petitioner has not provided sufficient evidence to show that she would employ a significant population of workers in a particular region, nor has she shown that her proposed endeavor would offer substantial economic benefits through employment levels, business activity, or tax revenue. As such, the record does not demonstrate that the prospective benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Matter of Dhanasar*. *Id.* at 890.

The record does not establish the national importance of the proposed endeavor as required by the first prong of *Matter of Dhanasar*. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *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).

III. CONCLUSION

The Petitioner has not demonstrated that the proposed endeavor has national importance. As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, she has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

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.