U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 40777279

Date: JAN. 28, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a chief executive, 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).

Service Center Operations (SCOPS) denied the petition, concluding that although the Petitioner qualified for classification as an advanced degree professional and his endeavor has substantial merit, he had not established that his proposed endeavor is of national importance, or that, on balance, 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:

[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 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 indicated that the proposed endeavor will be an entrepreneur and chief executive in the field of electrical engineering since he will operate a business that is a "service provider of consulting and installation service to apply and improve the best method for energy efficiency seeking the best equipment and technological innovations in this sector for his customers." SCOPS denied the petition, concluding that although the Petitioner is eligible for EB-2 classification as an advanced degree professional, he did not establish that a waiver of the job offer, and labor certification requirement, is in the national interest. Upon review, for the reasons discussed below, we agree that the Petitioner has not sufficiently demonstrated the national importance of the proposed endeavor in order to establish eligibility under the first prong of the *Dhanasar* analytical framework. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

On appeal, the Petitioner submits a brief that reiterates arguments concerning the purported national importance of the proposed endeavor and cites documentation previously included in the record. The Petitioner generally alleges on appeal that SCOPS "did not apply the proper standard of proof in this case, instead imposing a stricter standard, and erroneously applied the law, to the detriment of the Appellant." 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). Here, the Petitioner does not further explain or identify any specific instance in which SCOPS applied a standard of proof other than the preponderance of evidence in denying the petition. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

On appeal, the Petitioner states SCOPS did not sufficiently review all evidence, including the business plan, recommendation letters, industry reports and articles, and résumé. However, in the decision, SCOPS discussed the industry reports and articles and letters of recommendation, and the Petitioner's qualifications and experience. The Petitioner does not explain what specific content SCOPS failed to consider or how the record contains evidence that overcomes SCOPS' analysis and findings. Therefore, we do not find support for the Petitioner's assertion that SCOPS did not properly review all evidence.

The Petitioner reiterates on appeal that his proposed endeavor will be to operate [redacted] and he has the "potential to significantly contribute to the U.S. economy through job creation and economic impact" since the company will "bring the best electrical engineering and energy efficiency solutions to businesses in the residential, commercial, and industrial sectors." The Petitioner also states that he plans to help small and medium-sized businesses by streamlining their internal processes by delivering high-tech solutions that will help clients organize and manage their

energy usage and increase business performance. In addition, the Petitioner states that it will open offices in "distressed neighborhood zones."

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. The Petitioner repeatedly emphasizes his experience, skills, and knowledge. 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 engineering, immigration, and entrepreneurism.[2] 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 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. 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. For entrepreneurial endeavors, in determining an endeavor's national importance, we also consider additional factors such as revenue growth, revenue generation, and job creation in our analysis. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(4), ("Specific Evidentiary Considerations for Entrepreneurs").

Moreover, 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. On appeal, the Petitioner states that his company "packages replicable engineering protocols, safety/maintenance standards, and outage prevention playbooks that can be deployed across multiple utilities, transit agencies, and industrial campuses." However, the Petitioner did not offer specific information and evidence to corroborate his assertions that the prospective impact of running a business to provide consultation services to clients rises to the level of national importance. The Petitioner did not explain how his protocols and standards will be disseminated beyond his clients and have a broader impact to the industry. In *Dhanasar*, we determined 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 does not show through supporting documentation how his specific services stand to sufficiently extend beyond his prospective clients, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance. The Petitioner provided very general notions of national impacts but did not provide specific information on how his business that services clients in a certain area can actually have a national impact. We further note that his assertions with respect to the shortage of electrical engineer professionals in the United States does not render his proposed endeavor nationally important under the *Dhanasar* framework because the U.S. Department of Labor directly addresses these shortages through the labor certification process.

[2] The Petitioner's contentions and submissions of industry articles and reports relates to the substantial merit of the proposed endeavor rather than the national importance.

The Petitioner discusses U.S. government initiatives that may support the expansion of renewables, storage, and electrified transit. Although the Petitioner's work may be in an important field, he must still establish the specific proposed endeavor has national importance as it is presented in the *Dhanasar* framework. While the Petitioner's work may be in the electrical engineering and renewable energy fields, that alone does not mean it rises to the level of national importance. The proposed endeavor itself must still meet the level of prospective impact set forth in *Dhanasar*. We recognize the value and importance of the industry; however, working in an important field is insufficient to establish the national importance of the proposed endeavor. Here, the Petitioner improperly relies upon the importance of the industry to establish the national importance of the Petitioner's proposed endeavor. Although this evidence provides background information on the industry itself, and government efforts to support the industry; without sufficient documentary evidence of the specific proposed endeavor's broader impact on the industry, the Beneficiary's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

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 it plans to locate its headquarters and future branches in "distressed neighborhood zones." However, the Petitioner does not provide evidence identifying what qualifies as a "distressed neighborhood zone" of whether the offered positions are located within such a zone. Further, to the extent that the Petitioner is trying to equate his business being in a distressed zone with *Dhanasar's* emphasis on job creation and economic effects in an "economically depressed area," the evidence does not sufficiently explain how merely locating his offices in a "distressed neighborhood zone" 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 "distressed neighborhood zone" 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.

Upon review of the business plan, the Petitioner projects that his business will have a total of 28 direct and 117 indirect employees by its fifth year. In his projected financial information, the Petitioner projects that his business will generate approximately $13 million and make annual tax contributions of $612,590.00 by the fifth year. We acknowledge that the Petitioner's business plan projects the creation of jobs, revenue, and taxes paid by its fifth year of operation, however the plan does not sufficiently detail the basis for the revenue and staffing projections, nor does it adequately explain how the revenue and staffing projections will be realized. *Matter of Chaw*athe, 25 I&N Dec. at 376. As such, without more, he has not established that his endeavor will have substantial positive economic effects at a level commensurate with national importance. *Matter of Dhanasar* at 890.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. Further analysis of the Petitioner's eligibility under the second and third *Dhanasar* prongs, therefore, would serve no meaningful purpose. Accordingly, we reserve those issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

## III. CONCLUSION

As the Petitioner has not met the *Dhanasar* analytical framework's requisite first prong, we conclude that he has not established that he 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.