U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37870463

Date: JULY 1, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is a lawyer who seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, as well as a national interest waiver (NIW) 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 Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Petitioner qualified for the underlying visa classification, nor did he merit a discretionary waiver of the job offer requirement in the national interest. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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 USCIS may, as matter of discretion, 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. USCIS' decision to grant or deny an NIW is discretionary in nature. *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the First, Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals).

II. ANALYSIS

A. Eligibility for the EB-2 Classification

SCOPS determined that the Petitioner was not eligible for the EB-2 classification because the record did not contain a certified English translation for his foreign degree. But as the Petitioner notes in the appeal brief, he previously provided a certified English translation for his foreign degree, and he has overcome that basis in the petition denial. Accordingly, the sole issue on appeal is whether the Petitioner merits an NIW of the EB-2 classification's job offer requirement as a matter of discretion.

B. National Interest Waiver

The Petitioner's proposed endeavor relates to the organization he is in the process of establishing which will serve as an immigration law firm where he plans to provide essential legal services that help immigrants regularize their legal status in the United States. His business plan presented projections that by the end of five years, it would create three positions within the firm and approximately $380,000 in revenue. The business would provide legal services to vulnerable immigrants through assistance filing asylum applications, work permits, family petitions, and representing aliens in court proceedings

1. Substantial Merit and National Importance (Collectively *Dhanasar's* First Prong)

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.*

We conclude the Petitioner has not established his proposed endeavor's national importance as *Dhanasar* requires. The Petitioner responded to SCOPS' request for evidence with the claim that his proposed endeavor would stand out from what already exists in the immigration law field, and as a result it has national importance. But SCOPS decided he did not adequately support that statement. SCOPS evaluated the Petitioner's business plan, statements, and endorsement letters, and still found the record lacking a sufficient indication of the law firm's broader implications, or his explanation of how the proposed endeavor implicates matters rising to a level of national importance beyond the typical occupational duties of a lawyer.

SCOPS compared the proposed endeavor here with the endeavor in the *Dhanasar* decision. They noted that although an endeavor such as the Petitioner's may impact an employer or the individual clients who that employer may assist, the issue in this petition is not whether an employer or client would benefit from the endeavor, but whether the endeavor has broad implications with substantial positive effects. SCOPS further indicated that while individually tailored services help serve specific

needs of an employer or client, by their very nature, they do not represent broadly applicable measures that a wide range of companies can readily adopt.

SCOPS also compared the weight of the testimonial letters the Petitioner presented to the letters in the *Dhanasar* case from those holding senior positions in academia, government, and industry that tended to corroborate the national importance of Dr. *Dhanasar's* research efforts. SCOPS contrasted that type of correspondence to the material the Petitioner provided that spoke highly of his abilities, experience, and positive personal characteristics, but they did not support his claims that his proposed endeavor would be of national importance.

In response to SCOPS' adverse findings, on appeal the Petitioner again asserts that his endeavor is of national importance as it will effectuate a positive impact on the economy. He also questioned SCOPS' commentary that "[t]he evidence does not suggest that the [Petitioner's] services are better, different, or cost less than those already available in the United States." The point SCOPS was conveying in that comment was the Petitioner did not explain how his endeavor was different than other small immigration law firms already in existence that may have localized effects but are not impactful at the level warranting a waiver of the job offer requirement. Lacking from the record is an indication of the extent to which the Petitioner's endeavor would have substantial positive economic effects rather than incremental or nominal impacts. Nominal services in an industry are not sufficient to meet the national importance requirement under the *Dhanasar* framework. *Id.* at 889–90.

Furthermore, the record does not suggest that the Petitioner's legal services or methodologies somehow differ from, or improve upon, those already available and in use in the United States. The Petitioner does not sufficiently describe the global or national implications stemming from the services his small law firm will have on the U.S. immigrant community or the broader implications. The *Dhanasar* decision contemplates that "[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.* at 893. The Petitioner has not preponderantly established the extent to which the proposed endeavor will benefit the United States or how it will impact the field more broadly, which the *Dhanasar* precedent requires.

Merely adding to the legal services that are already available doesn't establish the potential prospective impact of his work more broadly to the field will be anything more than a nominal expansion. In its present form, this is comparable to the foreign national's teaching activities in the *Dhanasar* decision that did not rise to the level of having national importance because they would not "impact the field of [science, technology, engineering, and math] education more broadly." *Id.* The evidence does not suggest that the Petitioner's legal consulting services would impact the field of immigration law in the United States more broadly.

Finally, the Petitioner identifies several support letters he offered before SCOPS and he notes that they confirm how the business plan will materialize and will serve the needs of the "impressive [] number of people who arrive in the country and who require adequate judicial support and who do not have the resources to do so." But as SCOPS indicated within their decision to deny the petition, when evaluating national importance, USCIS focuses on the specific endeavor that must be of national importance—here a small immigration law firm serving the immigrant community—rather than evaluating the work that occurs in the Petitioner's occupation or industry. *Id.* at 889.

Even considering the Petitioner's claims in their totality, he has not sufficiently established the national importance of his proposed endeavor as *Dhanasar's* first prong requires, and he has not demonstrated eligibility for an NIW of the job offer requirement.

2. We Reserve *Dhanasar's* Remaining Second and Third Prongs

As we explain above, *Dhanasar's* second and third prongs require the Petitioner to demonstrate he is eligible for an NIW meeting additional requirements. But because the Petitioner has not established that his proposed endeavor satisfies the *Dhanasar* framework's first prong, he is not eligible for an NIW and further discussion of the second and third prongs would serve no meaningful purpose. Consequently, we will not address, and we reserve the Petitioner's remaining appellate arguments. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also Matter of Larios-Gutierrez De Pablo & Pablo-Larios*, 28 I&N Dec. 868, 877 n.8 (BIA 2024) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.