U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42395220

Date: JUL. 08, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an aesthetician, 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 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 the record 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. 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;

[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 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

SCOPS concluded that the Petitioner does not qualify as either an advanced degree professional or as an individual of extraordinary ability.[2] As the resolution of the issues pertaining to the Petitioner's eligibility for a national interest waiver under the *Dhanasar* analytical framework is dispositive of this appeal, we will reserve consideration of the Petitioner's eligibility for the underlying EB-2 classification. *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).

The Petitioner operates a clinical aesthetics spa offering restorative and personal care treatments and procedures. Her proposed endeavor is to expand her wellness clinic in [redacted] Massachusetts, by opening two additional locations. In addition, she intends for her company to partner with oncology clinics and community nonprofits to advance public health and equity objectives by offering free paramedical services to breast cancer survivors and cleft-lip patients. She also emphasized that her bilingual services would benefit growing Portuguese-speaking populations who "face documented access gaps in confidence-building elective services."

Although SCOPS determined that the Petitioner established the substantial merit of her proposed endeavor, SCOPS concluded that she did not establish the endeavor's national importance, that she is well positioned to advance the endeavor, or that, on balance, it would be beneficial to the United States to grant a waiver of the job offer requirement. On appeal, the Petitioner asserts that SCOPS failed to apply the correct standard of proof, misapplied the legal framework established by *Matter of Dhanasar*, and did not meaningfully engage with the evidence submitted.

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.* We agree with SCOPS that the Petitioner has demonstrated the substantial merit of her proposed endeavor.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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

[2] On appeal, she does not contest SCOPS' conclusion concerning her eligibility as an advanced degree professional. We therefore consider the issue to be waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, I&N Dec. 657, 658 n.2 (BIA 2012)).

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 provide context for her proposed endeavor, the Petitioner submitted reports containing information about the projected growth of the beauty industry and the medical spa and cosmetic laser markets, advanced skincare treatments, and the role of operations managers. On appeal, she states that this information demonstrates that her "proposed endeavor is unquestionably of national importance, given the significant impact that the personal care, wellness, and restorative healthcare sectors play in every type of economy." However, statements and evidence regarding the importance of the relevant industry overall do not demonstrate that a person seeking to start a business in that industry satisfies the national importance prong.[3] Instead, we focus on the specific endeavor that the individual proposes to undertake. *Id* at 889.

The Petitioner's endeavor is to expand her aesthetics spa business offering restorative and personal care treatments and procedures. She asserts that her proposed endeavor is nationally important "due to its economic and public health implications, which very much affect nationwide activities, clinical safety protocols, and the productivity of the U.S. wellness and restorative care business sectors. But these statements are not supported by corroborating evidence concerning the prospective impact of her individual company. Her assertions concerning the purported national importance of her proposed endeavor rely on the general importance of accessibility to services that support personal wellbeing. For example, she emphasized that her endeavor is nationally important because it aligns with federal initiatives, such as Healthy People 2030, an initiative to eliminate health disparities, improve access to high-quality care, and enhance quality of life for individuals with chronic or post-surgical needs. She further stated that her endeavor aligns with an executive order to advance equity and support for underserved communities. However, an endeavor involving work relating to national initiatives is not sufficient to demonstrate the national importance of that work. The Petitioner must demonstrate the potential prospective impact of the specific endeavor. Here, the Petitioner did not provide evidence that her work will be carried out on a scale that would have a substantial prospective impact on healthcare access.

The Petitioner submitted an opinion letter from an assistant professor of professional practice at [redacted] The professor states that the business is poised to expand into markets that are both economically disadvantaged and culturally diverse, and that the expansion will not only fill gaps in the wellness and beauty sector but address critical labor shortages by creating training opportunities to meet industry demand for trained, skilled professionals. While this letter provides an overview of the Petitioner's intentions for her company, it does not credibly explain why her particular endeavor would have broader implications such that it rises to the level of national importance. For instance, the author states that the Petitioner's business will support broader national goals in healthcare, workforce development, and economic growth, providing benefits "that will be felt throughout society and the economy for years to come." But the author does not offer persuasive details explaining how her business will have broad implications for the field. Instead, the author reiterates the Petitioner's claims based on the evidence she submitted. As a matter of discretion, we may use opinion letters as advisory. However, we are not required to accept such evidence or may give less weight to that evidence if it is

[3] *See generally* 6 *USCIS Policy Manual* at F.5(D)(6), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5.

not in accord with other information or is in any way questionable. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988).

Further, the Petitioner has not explained how she would undertake an endeavor of a scale that would reach the level of "substantial positive economic effects" contemplated by the precedent decision. *See Matter of Dhanasar*, 26 I&N Dec. at 890. She provided a business plan showing that her company will employ 17 employees and create 14 indirect jobs by its fifth year of operation, generating $3.4 million in revenue and contributing more than $800,000 in taxes. The business plan, however, does not explain how these forecasts were calculated or adequately clarify how these projections will be realized. In addition, while she stated that the locations of her company would contribute to growth in historically underutilized business zones, she has not provided corroborating evidence to demonstrate how her specific business would benefit these areas to result in a significant economic impact. The Petitioner has not provided independent evidence or otherwise explained how her business would create jobs at a level that would have a significant impact in a region or have a prospective national impact on a specific field. On appeal, she states that her company "is poised to scale its successful clinical model nationwide, further increasing its contribution to the U.S. economy and wellness system." But apart from her own assertions and those in the opinion later, she has not provided sufficient evidence to corroborate her claims. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner also stated that her company will "elevate work skills" by offering a "structured internship pipeline that will prepare entry-level aestheticians to handle advance laser devices and organic pigment protocols," giving graduates "verifiable credentials . . . expanding the pool of licensed practitioners nationwide." But she did not specify what credentialing her business would offer or provide evidence of any authority granted to her company to issue credentials for aestheticians or other service providers in her field. Further, in our precedent decision, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *See Matter of Dhanasar*, 26 I&N Dec. at 893. The Petitioner has not provided evidence sufficient to demonstrate that any training provided by her company would have an impact beyond the individuals receiving that training. On appeal, the Petitioner asserts that her endeavor will address "a critical industry shortage for specialized, bilingual paramedical care," but she has not shown how her proposed endeavor will sufficiently extend beyond the individuals she trains to affect the region or the nation. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

On appeal, the Petitioner asserts that SCOPS did not give due regard to certain evidence in the record, including letters of recommendation. The record includes letters of support from individuals familiar with the Petitioner and her work, including clients who have received her services. The letters laude her professionalism and technical proficiency, describing her as dedicated, adaptable, passionate, and personable. These letters, however, do not speak to the prospective potential impact of her company's services, but describe her experience and qualifications—considerations which pertain to her positioning to advance her endeavor under the second prong of *Matter of Dhanasar*.

The Petitioner has not demonstrated that her proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects. It is not clear how a business of the size and scope described in the business plan would have national or global implications. 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 the precedent decision. *See Matter of Dhanasar*, 26 I&N Dec. 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. at 25.

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.