U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43239541

Date: JUL. 10, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a lawyer and entrepreneur, 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).

USCIS 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 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:

- 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

Service Center Operations (SCOPS) concluded that the Petitioner qualifies as an advanced degree professional. The record includes documentation showing that he has the U.S. equivalent of a bachelor's degree in law and more than five years of progressive experience in his field. 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 first prong of the *Dhanasar* framework, 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 as business, entrepreneurialism, science, technology, culture, health, or education. 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 Petitioner's proposed endeavor is to operate a law firm specializing in international business law, with a focus on cross-border legal services between the United States and Brazil. He stated that his firm would provide services such as contract negotiation, regulatory compliance, immigration support, and foreign investment advising. He stated that his firm's "mission is to help Brazilian companies establish a lawful and sustainable presence in the United States, while also guiding U.S. businesses entering the Brazilian market. In doing so, the firm will contribute to foreign direct investment (FDI), job creation, entrepreneurship, and economic integration between the two nations."

SCOPS determined that the Petitioner established the substantial merit of his proposed endeavor. We agree. SCOPS concluded, however, that he did not establish the endeavor's national importance, that he 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.

The Petitioner asserts on appeal that, rather than analyzing the endeavor's potential prospective impact, SCOPS misapplied *Matter of Dhanasar* by imposing a "retrospective evidentiary requirement on . . . a forward-looking inquiry." He states that SCOPS "faulted the record for not demonstrating how the endeavor 'has' broader impact, thereby requiring proof of realized outcomes." Although the Petitioner indicates that SCOPS' decision required that he demonstrate the existing impact of his endeavor, the denial notice does not reflect that assertion. The decision discusses, for example, how the record does not contain sufficient evidence to support his assertions concerning the economic impact that his "proposed endeavor *will* offer" or demonstrate how his "proposed employment activities *stand to have* a broader impact on the field . . ." (emphases added). The Petitioner asserts that SCOPS "essentially required proof of impact that has already occurred"; however, a plain reading of the language here and the remainder of SCOPS' analysis concerning the national importance of the proposed endeavor shows that it was considered in terms of its potential future impact, not what impact it has made.

The Petitioner further asserts on appeal that SCOPS "did not give due regard" to certain evidence, including his resume, business plan, and letters of recommendation, and he maintains that the record establishes his eligibility for a national interest waiver. He points to articles and reports in the record about the legal services market, immigration, entrepreneurship, and government initiatives involving Brazilian investments, stating that this documentation demonstrates that his "proposed endeavor is unquestionably of national importance, given the significant impact of the role that specialized professionals play in every type of business." The Petitioner asserts that his proposed business activities—to facilitate FDI and secure bilateral cross-border transactions—are, "by their very nature, national in scope and impact." However, in determining national importance, 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.* at 889. 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.*

Here, the Petitioner has not demonstrated the broader implications of his specific business. He asserts that his firm will "become an instrumental player in strengthening the economic and legal ties between Brazil and the United States" and act "as a critical bridge in the nation's economic infrastructure." But he does not elaborate on how his business would achieve this level of significance, and the record does not provide adequate support for a determination that his specific proposed endeavor will have the influence to make a wide-reaching and consequential impact. In *Matter of Dhanasar,* 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. *Id.* at 893. Here, the Petitioner has not submitted sufficient evidence to establish that his work would extend beyond his company and its clients to impact the field in which he intends to operate at a level commensurate with national importance.

We also stated in *Matter of Dhanasar* 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. The Petitioner's business plan states that, by establishing operations in areas with limited access to high-value employment opportunities, he aims to generate direct jobs, support local talent, and stimulate entrepreneurial ecosystems that foster self-sustaining economic momentum. His business would initially operate in Washington, D.C., expanding to [redacted] and [redacted] Florida, and he submitted documentation from the Small Business Administration identifying areas in these cities as low-income census tracts eligible for certain investment tax incentives, which would benefit his company's clientele of investors. But he has not explained what specific positive economic effects his business would have in the locations cited, such as whether or how his company would utilize a significant population of workers in a given area or otherwise substantially impact job creation and economic growth. While he stated that his company will seek to be a force for positive change in the communities where it will operate, "[w]hether through partnerships, educational initiatives, workforce training, or environmental projects," he did not detail what these relationships and activities would entail to effect that change. He has not offered sufficient, specific evidence establishing a substantial economic impact directly attributable to his business to demonstrate that it rises to the level of national importance.

In addition, although the business plan includes projections for his business as evidence of the potential economic impact of his endeavor, the Petitioner has not demonstrated how the proposed endeavor would generate such significant economic activity that it rises to the level of "substantial positive economic effects" as contemplated by *Matter of Dhanasar*. *Id.* His business plan projects generating $3,446,730 in revenue and $315,229 in tax contributions within the first five years of operation, but it does not explain the significance of those amounts—which are depicted as representing his company's presence in three locations—to show that the benefits to the regional or national economy would have the impact contemplated by *Matter of Dhanasar*. *Id.* Similarly, although the business plan estimates creating 21 direct jobs and approximately 105 indirect jobs within five years, it does not explain the relevance of the numbers to demonstrate that such staffing levels would provide substantial economic benefits to the areas where his company will operate.

The Petitioner stated that his endeavor is "national in scope, as his professional activities relate to a matter of national importance and impact, particularly because they generate substantial ripple effects upon key commercial and business activities on behalf of the United States." However, the Petitioner has not offered a sufficiently direct connection between his proposed endeavor and any demonstrable economic effects either regionally or nationally. As such, the record does not sufficiently demonstrate that, beyond the limited benefits provided to its prospective clients and employees, the Petitioner's proposed endeavor would have broader implications rising to the level of national importance. Further, he has not provided evidence to substantiate these forecasts, and his projections are not accompanied by an explanation of the origins of the figures used in his calculations. A petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Here, the business plan is not accompanied by corroborating evidence to show how his endeavor would substantially impact job creation and economic growth, either regionally or nationally.

Moreover, to evaluate whether an endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of the proposed work. *Matter of Dhanasar*, 26 I&N Dec. at 889. Recommendation letters from individuals who have worked with the Petitioner commend his knowledge, skills, and traits—considerations relevant to *Matter of Dhanasar's* second prong, concerning an individual's positioning to advance an endeavor—but they do not offer evidence to demonstrate any prospective outcomes of his particular endeavor. An expert opinion letter from a professor at [redacted] reiterates information about the endeavor provided in the business plan and emphasizes the endeavor's alignment with national priorities. However, again, when evaluating the national importance of a proposed endeavor, it is not the overall importance of the industry, field, or profession in which an individual intends to work, but the particular endeavor on which an individual intends to embark. *Id.* at 889. The letter further states that the Petitioner's services will "not only improve the legal infrastructure for foreign entrepreneurs and investors but also enhance U.S. competitiveness in the global legal services market." The letter does not, however, illustrate how the Petitioner's business has the potential to acquire such an expansive and efficacious role, and similar conclusory statements in the letter are not corroborated by other evidence in the record.

We observe that USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of*

Caron Int'l, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, *see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). Here, much of the content of the expert opinion letter lacks probative value with respect to the national importance of the Petitioner's specific proposed endeavor.

For the reasons provided above, the Petitioner has not established the importance of her proposed endeavor as required under the first prong of the *Dhanasar* framework.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. Accordingly, we need not reach, and therefore reserve, the Petitioner's appellate arguments regarding her eligibility under *Dhanasar*'s third prong. *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 appeal will be dismissed for the reasons stated above.

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.