U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38353106

Date: JUN. 02, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur, 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 the record did not establish that a waiver of the required job offer, and thus of a 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;
- 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

The Petitioner is an entrepreneur who intends to establish a consulting firm "to provide a sustainable tourism approach and help small and medium size[d] tourism-related businesses by providing them with sustainable methods of operation and . . . innovative strategies on how to target demand and increase their business."

SCOPS determined the Petitioner did not demonstrate her proposed endeavor has substantial merit or national importance; that she is well-positioned to advance the endeavor; or that, on balance, waiving the job offer requirement would be of benefit to the United States.

A. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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.* In *Dhanasar*, we 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.

An endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health or education. *Dhanasar*, 26 I&N Dec at 889. As the record reflects the proposed endeavor fall within one or more of these areas, the Petitioner has established the substantial merit of the proposed endeavor. However, we concur with the Director that the Petitioner has not demonstrated the national importance of her proposed endeavor.

On appeal, the Petitioner asserts SCOPS misinterpreted her endeavor and, accordingly, the national importance of her endeavor. In its denial decision, SCOPS indicated the Petitioner stated she "intend[s] to work as a Lodging Management Specialist." The Petitioner contends this characterization of her endeavor is "unduly narrow," cites to *Dhanasar* for the proposition that an endeavor "is not confined to a single profession or job title but rather includes a broad array of activities and contributions that benefit the United States," and cites to *Loper Bright Enterprises v. Raimondo*, No.22-451, 600 U.S. (2023), in asserting interpretations of petitioner forms should not be "overly restrictive or narrow." *See Dhanasar*, 26 I&N Dec. at 884. The Petitioner acknowledges that in Part 6. Basic Information About the Proposed Endeavor, of her Form I-140, Immigrant Petition for Alien Workers, she indicated her job title was "Lodging Management Specialist," but asserts SCOPS improperly relied narrowly upon this job title in evaluating the national importance of her endeavor. In addition, the Petitioner asserts SCOPS "failed to address" the details of her proposed endeavor, as

relayed in her response to a request for evidence (RFE). However, in its decision, SCOPS specifically noted the Petitioner stated her proposed endeavor is to "develop and implement sustainable tourism solutions and innovative marketing strategies to enhance the operational efficiency and market reach of small and medium-sized tourism and hospitality businesses in the United States in order to increase their profitability and reduce their environmental impact, thereby fostering economic growth within the sector," in response to the RFE. Accordingly, the record reflects SCOPS properly considered the Petitioner's RFE response and the stated goals and purpose of the Petitioner's proposed endeavor.

The Petitioner similarly contends SCOPS "has only made general statements without mentioning what documentation was actually analyzed and why the documentation was insufficient to address the first prong." The Petitioner claims that under the regulations,[2] SCOPS "is required to analyze each criterion individually, and must address the documentary evidence submitted by the petitioner in support of each claim." SCOPS, in its denial decision, separately addressed the Petitioner's qualification for the underlying EB-2 visa classification, in addition to each of the three *Dhanasar* prongs. SCOPS also explicitly considered these submitted documents in the record: petition letter, biographic documents, endeavor statement, education documentation, employment experience, letters of recommendation, expert opinion letter, certificates, business plan, letters of interest, evidence of past work and achievements, and "articles and reports regarding the travel and tourism industry." In finding the Petitioner had not established the national importance of her proposed endeavor, SCOPS determined the Petitioner had not demonstrated the prospective impact of her endeavor rose to the level of national importance, that the endeavor "stands to sufficiently extend beyond ["company, future clientele, or business partnership"] to impact the field or the nation more broadly at a level consistent with national importance," or that her consulting firm "would result in significant job growth and/or substantial positive economic effects for the nation." The Petitioner has not overcome this finding on appeal or otherwise demonstrated the national importance of her endeavor.

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion.

[2] The Petitioner cites to 8 C.F.R. § 204.5(h) in asserting SCOPS "is required to analyze each criterion individually, and must address the documentary evidence submitted by the petitioner in support of each claim." It is noted this section of the regulations pertains only to aliens with extraordinary ability, rather than national interest waiver petitions, and does not contain the requirements cited by the Petitioner.

ORDER: The appeal is dismissed.