U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37312951

Date: JUN. 03, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an operational manager, 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).

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the Petitioner had not established eligibility for the underlying EB-2 immigrant classification and 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, petitioners must establish they are advanced degree professionals or individuals of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If petitioners establish 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
- On balance, waiving the job offer requirement would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

SCOPS determined the Petitioner had not established her eligibility for the underlying EB-2 visa classification and that a discretionary waiver of the job offer requirement would be in the national interest because she had not established any of the three required Dhanasar prongs.

Based on our de novo review of the record, we agree with SCOPS that the Petitioner has not established the national importance of her proposed endeavor under *Dhanasar's* first prong. Because this issue is dispositive of the appeal, we reserve the Petitioner's arguments regarding whether she meets the remaining Dhanasar prongs to demonstrate she merits a discretionary waiver of the job offer requirement in the national interest, as well as whether she meets the requirements for the underlying EB-2 visa classification. See INS v. Bagamasbad, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions 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).

In the underlying record, the Petitioner submitted a business plan claiming she will direct and oversee her own company, headquartered in [redacted], California, which will offer consulting and auditing services to help other companies improve their performance and comply with regulations. The Petitioner's company will analyze and optimize operations, identifying areas for improvement, implementing new technologies and ensuring that companies comply with standards and regulations.

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. On appeal, the Petitioner claims SCOPS found her proposed endeavor had substantial merit. While SCOPS did not determine whether the Petitioner's endeavor had substantial merit, we conclude nevertheless that the Petitioner sufficiently demonstrated in the record below that the endeavor falls within one or more of the areas contemplated by Dhanasar to establish the substantial merit of her proposed endeavor.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. Id. "We look for broader implications" of the proposed endeavor and explained that "[a]n undertaking may have national importance for example, because it has national or even

[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).

global implications within a particular field." Id. at 890. 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.

SCOPS reviewed the documents the Petitioner submitted in support of the national importance of her proposed endeavor, including articles on supporting small businesses and national initiatives, of which she asserts her proposed endeavor aligns, a business plan, and an expert report. It determined that the Petitioner's articles were not probative because they did not discuss any details relating to her specific endeavor, rather they discussed various industries in general and provided statistics on those industries. SCOPS also concluded that the Petitioner's business plan and expert letter contained uncorroborated assertions and therefore did not support the national importance of her proposed endeavor. For example, SCOPS noted that the plan makes various projections for the business, such as in staffing, revenue, and tax projections over five years, without providing any basis for the projections or evidence supporting the significance of its projections.

On appeal, the Petitioner asserts SCOPS did not properly weigh her expert opinion letter. To determine whether a petitioner has met the burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality, including relevance, probative value, and credibility, of the evidence. Matter of Chawathe, 25 I&N Dec. at 375-76; Matter of E-M-, 20 I&N Dec. 77, 79-80 (Comm'r 1989). As noted by SCOPS, the expert letter merely restates the Petitioner's assertions with no corroborating details to support the statements. For example, according to the letter, the Petitioner's company will "generate[] substantial employment benefits, with projections indicating the creation of direct and indirect jobs in various sectors" and "by [] optimiz[ing] their operations and adopt[ing] innovative sustainable practices, the company will contribute to the overall economic health of the region it serves." The expert letter also describes the Petitioner's "wealth of expertise and deep commitment to excellence." However, the Petitioner's knowledge, skills, and abilities relate to the second prong of the Dhanasar framework, which "shifts the focus from the proposed endeavor to the foreign national." Matter of Dhanasar, 26 I&N Dec. at 890. The issue here is whether the specific endeavor that the Petitioner proposes to undertake has national importance under *Dhanasar's* first prong. Here, the Petitioner's expert letter and supporting evidence do not support the national importance of her proposed endeavor.[2]

The Petitioner does not allege any other error in SCOPS' analysis of the national importance of her proposed endeavor. Rather, she reasserts many arguments addressed below. She argues that her proposed endeavor will improve occupational shortages and create new jobs, will increase profitability and efficiency in an important field, which will increase social well-being. However, an alleged shortage of occupations or occupational skills does not render a proposed endeavor nationally important under the Dhanasar framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process. Further, we acknowledge that 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. However, the Petitioner did not identify in the record below or now on appeal the methods and

[2] We may not discuss each supporting piece of evidence but we have reviewed the record in its entirety.

improvements she intends to implement related to her endeavor or explain how these measures would have global or national implications to the field beyond the individuals or entities using them. Moreover, the Petitioner has not demonstrated the extent to which her proposed endeavor's methods or strategies improve upon those already available and in use in the United States such that her proposed endeavor would have national or global implications within her field or for the United States.

The Petitioner further alleges she will implement specific economic development programs in underserved areas. She describes working with small businesses to implement strategies that, for example, will promote sustainable economic growth, which aligns with national objectives. Merely working in an important field or in an area a government entity has described as a priority is insufficient to establish the national importance of the proposed endeavor. See id. at 889 (explaining that in determining national importance, we do not focus on the importance of the field, industry, or profession in which the individual will work but on "the specific endeavor that the foreign national proposes to undertake"). In addition, the Petitioner did not provide evidence that the area where the company intends to operate is economically depressed, or that the specific proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects. As noted, the Petitioner did not provide the basis for the projections in the business plan or in the remaining record, nor did she establish the import of such data and that such future employment figures would use a significant population of workers in the area or would substantially impact job creation and economic growth, either to the [redacted], California region or the U.S. economy more broadly at a level commensurate with national importance. Id. at 890.

The Petitioner has not established by a preponderance of the evidence the broader implications of her proposed endeavor, that it would have global implications within her field or would have substantial positive economic effects, particularly in an economically depressed area, to be understood to have national importance.

III. CONCLUSION

The Petitioner has not established the national importance of her proposed endeavor, a requirement to establishing prong one of *Dhanasar's* framework. Consequently, the Petitioner has not demonstrated that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

ORDER: The appeal is dismissed.