U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37289867

Date: JUN. 04, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 does not establish that the Petitioner is eligible for a national interest waiver as a matter of discretion. 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

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

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

II. ANALYSIS

The Petitioner proposes to serve as the executive director and consultant of her own company that will provide consulting services for social issues such as combatting human trafficking and child labor while also providing comprehensive holistic therapy. SCOPS determined that the Petitioner established her eligibility for the EB-2 classification as a member of the professions holding an advanced degree. However, SCOPS also concluded that the Petitioner did not establish eligibility for a national interest waiver. On appeal, the Petitioner contends that SCOPS "misinterpreted the legal framework established in *Matter of Dhanasar*, failed to properly evaluate the substantial evidence provided, and issued a decision that is arbitrary and capricious, violating the Administrative Procedure Act (APA). Additionally, the Request for Evidence was deficient in providing clear guidance, depriving [the Petitioner] of a reasonable opportunity to address USCIS' concerns."

As an initial matter, the Petitioner contends that USCIS violated the APA but does not provide examples or cite to a specific section of the APA that USCIS is meant to have violated. Rather, the Petitioner generally asserts that the decision was arbitrary and capricious. In reading the denial, we observe that SCOPS evaluated and discussed various evidence submitted by the Petitioner, including the personal statements, letters of support; and articles and industry reports. Similarly, the Petitioner questions the contents of the request for evidence (RFE) in broad and general terms without identifying any specific examples. The RFE includes reference to the Petitioner's proposed endeavor, the letters of recommendation, specific issues with the evidence such as a lack of corroborating evidence, and suggestions on types of documentation that could be submitted. We conclude that SCOPS followed the applicable regulations at 8 C.F.R. §§ 103.2(b)(8) and 103.3. Upon de novo review, we agree with SCOPS that the totality of evidence does not demonstrate national importance as contemplated by *Dhanasar*.

A. EB-2 Classification

The Petitioner is a psychologist who asserts she has over 15 years of experience. She submitted a foreign diploma and transcripts accompanied by an academic evaluation which states that her degree is equivalent to a U.S. bachelor's degree in psychology. In addition, the record contains letters evidencing at least five years of progressive experience in the specialty. SCOPS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree and we agree.

[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).

B. National Interest Wavier

1. Substantial Merit

The first prong, 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. *Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner states that her proposed endeavor is to serve as an executive director and consultant for her own company which will provide mental health services such as individual, couples, family, and group therapy sessions; focusing on clinical hypnotherapy. In addition, the Petitioner will provide consulting services to combat issues such as human trafficking and child labor. The record includes information on the state of mental health in the United States, the shortage of mental health professionals, and reports on the industry. Additionally, the record contains reports on the rates of human trafficking and child labor in the United States; as well as evidence of U.S. government initiatives to combat these issues. We conclude that the proposed endeavor has substantial merit.

2. National Importance

On appeal, the Petitioner contends that SCOPS misinterpreted the evidence she provided in concluding the record did not establish the endeavor's national or global implications within the field. She states that her work has significant national and global implications in the areas of human trafficking prevention and mental health advocacy. She states that human trafficking prevention is recognized by the U.S. government as a national priority and contends that the SCOPS decision erroneously concludes that "human trafficking does not qualify as a national or global issue." We acknowledge the national importance of combatting human trafficking; 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 [Petitioner] proposes to undertake." *Id.*

The Petitioner further states that her proposed endeavor is directly in line with federal efforts such as the "National Action Plan to Combat Human Trafficking." While the federal initiatives may speak to the significance of the field, it does not establish the specific endeavor's potential prospective impact. Regardless of whether a generalized industry or field may have national importance or is the subject of a national initiative--the record must nevertheless establish how "the specific endeavor that the [Petitioner] proposes to undertake" may have "national or even global implications *within a particular field,* such as those resulting from certain improved manufacturing processes or medical advances" or broader implications, such as "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Id*. at 890. (emphasis added). Therefore, the national importance of combatting human trafficking does not amount to the national importance of the Petitioner's specific proposed endeavor. The Petitioner must demonstrate the national importance of her specific endeavor. Here the record does not support such a conclusion.

As stated above, an 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 889. While the the record reflects the Petitioner's

intention for her proposed endeavor to have broad implications, she has not offered sufficient objective and independent evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. *Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner contends that her contributions will have national implications by helping to reduce human trafficking cases across the United States, and even globally. For example, in the RFE response, the Petitioner projects, in part, that her proposed endeavor will result in a 10% annual decrease in the number of identified and reported human trafficking cases over the next five years and a 20% increase in the number of prosecutions and convictions for human trafficking cases over the next five years. However, the record does not contain information on how these numbers were calculated, or additional evidence to support these assertions. A petitioner must support assertions with relevant, probative, and credible evidence. *Id.* While we acknowledge the merit of her work, without sufficient supporting evidence of national or global implications, the Petitioner does not establish the national importance of her proposed endeavor.

SCOPS concluded that the Petitioner did not demonstrate that her proposed endeavor stands to extend beyond her company and its clients to impact the field more broadly. The Petitioner contends that this conclusion is not supported by the evidence in the record. She states that her work will result in systemic changes to combat human trafficking through education, advocacy, and collaboration with key stakeholders. The Petitioner states that one way she will do this by actively contributing to existing initiatives which will amplify her impact. The record contains evidence of the Petitioner's work with Amnesty International including information about the organization, documentation to establish the Petitioner's connection with the organization, and letters of recommendation from individuals within the organization who have worked with the Petitioner in this capacity. The letters commend the Petitioner on her work in helping establish a local [redacted] group in North Carolina. Although the record reflects the Petitioner's intentions to contribute to existing initiatives, the record is unclear as to how much of any impact would be attributable to the Petitioner's proposed endeavor. Without more information and evidence regarding the Petitioner's prospective contributions to existing initiatives, we cannot determine its prospective impact. Therefore, even if the project's impact could have national or global implications, the record does not establish that the Petitioner's specific endeavor would have national or global implications.

Additionally, the Petitioner will offer mental health services consisting of individual, couple, family, and group hypnotherapy sessions. In *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. *Matter of Dhanasar*, 26 I&N Dec. at 893. While we acknowledge the importance of mental health, the record establishes that the prospective impact of this aspect of her proposed endeavor will be limited to her direct clients. Similarly, the Petitioner's plans for community education also fall within the frame of teaching activities that would not rise to the level of national importance. To further her claim of national importance, the Petitioner contends there is a shortage of mental health professionals in the United States; which she supports with industry reports and articles. While we acknowledge the shortage of workers in this field, a shortage of qualified professionals does not establish her proposed endeavor nationally important under the *Dhanasar* decision. Here, the Petitioner has not established that her proposed endeavor stands to impact or significantly reduce these claimed national shortages. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

The Petitioner contends that SCOPS did not give proper weight to the Petitioner's prior work in Colombia, which she states is "highly relevant to the national importance of her endeavor." The appeal highlights the Petitioner's experience in the field, her commitment to mental health services and combatting human trafficking, and her previous accomplishments, such as her work in Colombia where she worked with victims, developed rehabilitation programs, and trained law enforcement officials. While we acknowledge the Petitioner's experience in the field of the endeavor, her past experience does not establish national importance under the *Dhanasar* framework. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. While past experience can be persuasive for prong two analysis, whether the Petitioner is well-positioned to advance the proposed endeavor, it does not establish the national importance of the proposed endeavor as it does not speak to the prospective impact of the proposed endeavor.

The Petitioner asserts that her proposed endeavor will benefit the U.S. economy and generate more revenue. *Dhanasar* states that a proposed endeavor may have national importance if it has, "significant potential to employ U.S. workers" or "other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 890. The Petitioner states that her company will have 10 employees in its first year of operation and will employ 126 individuals by the fifth year. The wages will start at a total of $536,000 and its fifth-year total will be over $8 million. The business plan further projects that in its fifth year, the company will have total sales of $14,640,859 and a net profit of $3,504,685. However, the record does not provide evidentiary support for the stated financial projections to demonstrate how these numbers were calculated, details regarding the basis for these projections, or adequately explain how these staffing and sales targets will be realized. A petitioner must support assertions with relevant, probative, and credible evidence. *Matter of Chawathe,* 25 I&N Dec. at 376. Without further explanation of the basis for these projections, we cannot assess whether the stated estimates are credible, and therefore, we conclude that the Petitioner has not met her burden to establish that her proposed endeavor stands to have "substantial positive economic effects" that would be commensurate with national importance. *Matter of Dhanasar,* 26 I&N Dec. at 890.

We note that the record contains an expert opinion letter which contends that the Petitioner's proposed endeavor will have substantial positive economic effects as the wages for her employees will go back into the local economy. The letter further states that her company will contribute to the development of professional skills in the labor market in the fields of mental health, legal support, and human rights advocacy, among other areas. The author also states that as the Petitioner's company gains prominence, it will attract other companies to the region and create an ecosystem of related services. The record does not contain corroborating evidence to support these claims. While any entrepreneurial endeavor has the potential to positively impact the economy on some level, it is the Petitioner's burden to demonstrate that the potential positive economic effects of her specific endeavor will be "substantial." The record does not contain sufficient additional evidence of the economic impact of the Petitioner's proposed endeavor and therefore it cannot be determined that the Petitioner's proposed endeavor has significant potential to employ U.S. workers or other substantial positive economic effects as *Dhanasar* intended.

While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. Although we acknowledge the merit of the Petitioner's proposed endeavor, her proposed work does not meet the first prong of the *Dhanasar* framework, and therefore, the Petitioner

has not demonstrated eligibility for a national interest waiver. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, remaining *Dhanasar* prongs. *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).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.