U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38704898

Date: JUN. 06, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a digital marketing and social media consultant and entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional or a person of exceptional ability, as well as a discretionary national interest waiver of the job offer requirement attached to this classification. 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 labor certification, would be in the national interest. This matter is now before us on appeal, which we review de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). The Petitioner bears the burden of establishing her eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon de novo review, we will dismiss the appeal.

I. LAW

To be eligible for a national interest waiver, a petitioner must first establish eligibility for the underlying EB-2 visa classification, as an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A), (B) of the Act; 8 C.F.R. § 204.5(k)(1).

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they warrant 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, which states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner establishes that: (1) the proposed endeavor has both substantial merit and national importance; (2) they are well positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer and thus labor certification requirements would benefit the United States. *Id.*

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts in holding that USCIS' decision on a national interest waiver is discretionary in nature).

II. ANALYSIS

The Petitioner submitted below evidence—including a copy of a Turkish graduate degree and diploma evaluation—indicating she has a U.S.-equivalent bachelor's and master's degrees and thus qualifies for the underlying EB-2 classification as an advanced degree professional holding a U.S.-equivalent master's degree. 8 C.F.R. §§ 204.5(k)(1)-(2), (k)(3)(i)(A). But SCOPS did not address her eligibility for the EB-2 classification, and we do not reach this issue on appeal and hereby reserve it.

The issue before us is whether the Petitioner warrants a discretionary national interest waiver under the *Dhanasar* framework and its requisite three prongs, any one of which is dispositive. Under this framework, the first prong, "substantial merit" and "national importance," focuses on the specific endeavor she 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; and in assessing whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

SCOPS found that although the Petitioner's proposed endeavor has substantial merit, the evidence did not demonstrate that it has national importance and therefore she did not meet *Dhanasar*'s first prong.[2] On appeal, the Petitioner alleges that SCOPS did not correctly apply the *Dhanasar* framework and failed to properly consider her proposed endeavor and all relevant evidence, and she reasserts her eligibility for a national interest waiver. We conclude that the record does not establish that the proposed endeavor has national importance and the appeal therefore will be dismissed on this ground.

The record reflects the Petitioner has a U.S.-equivalent four-year bachelor's degree in political science and public administration she earned in Turkey in 2004 and a 2011 U.S.-equivalent master's degree in economics and finance. As founder and CEO of her future company in this country, the Petitioner plans "to build an artificial intelligence (AI) based online evaluation platform for SMEs [small and medium enterprises]" to reduce business risks and improve their success rates.

Dhanasar's first prong, substantial merit and national importance, focuses on the specific endeavor she proposes to undertake in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* at 889. In assessing the claimed potential prospective impact of the proposed endeavor and whether it has national importance, we consider not only the quantity, but also the quality (including relevance and probative value) of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 375-76; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

Although the Petitioner's proposed endeavor as she described has merit, the evidence does not demonstrate that it would have significant potential to employ U.S. workers, have substantial positive economic impact in this country, broadly impact the industry on national or global level beyond her prospective business and its future clients, or otherwise have broader economic or societal implications rising to the level of national importance. *Dhanasar*, 26 I&N Dec. at 889-890.

In reasserting that her proposed endeavor has national importance, the Petitioner relies on her academic credentials and work experience in digital marketing and social media consulting and related platforms and content management, as indicated in her resume and support letters. She reiterates that

[2] SCOPS further determined that the evidence also did not satisfy *Dhanasar*'s second and third prongs.

her 18 years of work experience and specialized skills highly qualify her to build an AI-based online SME evaluation platform to reduce SME failure rates, which she claims is inherently critical for all SMEs. She further claims that given SMEs' large and crucial economic presence in the United States (as indicated by general industry articles noting the SME industry's significance) and their need for cutting edge AI-based SME assessment products, her proposed endeavor will have substantial positive economic and societal impact. However, the above evidence and assertions focus on her experience, skills, and the importance of the SME industry, and relate to *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national" and whether she is "well positioned" to advance her endeavor. *Dhanasar*, 26 I&N Dec. at 890. Further, the general industry reports and articles primarily relate to the significance of the SME industry rather than her own proposed field of developing AI-based online SME risk assessment platforms, and the record does not contain any specific probative evidence that there is a national interest in such online platforms.

For assessing the national importance of a proposed endeavor under *Dhanasar*'s first prong, we look to its "potential prospective impact" and evaluate whether the specific endeavor the Petitioner proposes to undertake has broader national significance, as required, rather than the importance of her profession or industry in which she proposes to engage. *Id.* at 889. Here, she proposes to work as an online platform developer to assess SME failure rates and help SMEs avoid common business setup pitfalls; assess market conditions, risks, and competitiveness; and optimize their strategies, which she claims will ultimately prevent loss of private and government funds and help recover over $180 billion in this country's lost gross domestic product (GDP) and save over a million jobs, even at only 20% improvement in overall SME failure rates. The Petitioner also claims that her proposed online SME evaluation platform will be "one of a kind innovation" with truly novel "auto assessment capabilities." However, she does not claim, and the record does not contain any evidence, that she is in the process of or she herself has developed *any* AI-based SME evaluation platforms or models, or that her claimed pertinent skills acquired in Turkey were or would be recognized or adopted by the online assessment platform industry or the SME industry in this country or otherwise have broad implications. Apart from her general assertions, the record also lacks evidence as to specifically when or how her AI-based online SME assessment platform will save billions in U.S. GDP and save millions of jobs. She also does not claim she could build her proposed platform independently based on her own skills, and the record lacks evidence of any interest in her future company from any U.S. entity that may otherwise indicate industry-wide significance of her proposed endeavor in a nationally distinguishable manner.

Although we acknowledge that the proposed endeavor could have a positive impact on her career, her future company, and its clients, the Petitioner has not persuasively explained, and the record (primarily including her assertions, business plan, support letters, and general industry reports related to SMEs) does not sufficiently demonstrate how her proposed work would have the national or global implications for the U.S. industry as she claims, beyond her prospective business and its clientele.

The record also does not show that the proposed endeavor would have "significant potential to employ U.S. workers" or "substantial positive economic effects, particularly in an economically depressed area," which *may* indicate national importance. *Id.* at 890. The business plan includes a personnel chart and a five-year plan listing the Petitioner as founder, CEO, and Head of Marketing and Business Developer, initially with another person as a "CTO" (Chief Technology Officer), and 25 additional employees by year five. The business plan also projects, based on its own forecast, $75,080 in total

revenue in its first year and $27,962,000 by year five with remaining net profit of around $25 million.[3] However, these projections lack corroborating evidence that would objectively substantiate them, and the record does not demonstrate how she will specifically achieve them. The business plan also does not include specific organizational plans or duty descriptions for its 25 future employees, and the record lacks evidence-based justifications for the increasing staffing projections and the claimed need for business expansion. The Petitioner also submitted evidence that she recently filed business incorporation papers to set up her company in Texas and the person she lists as her company's CTO would offer funding from Turkey. However, even if the job and profits projections are accurate and she were to receive actual investments for her future business, the Petitioner has not demonstrated that the economic benefits to the regional or national economy and the projected employment resulting from the endeavor would reach the level of "substantial positive economic effects" generally or particularly in an economically depressed area, as contemplated by *Dhanasar*, 26 I&N Dec. at 890.

She nonetheless continues to highlight, and we acknowledge, her past experience and accomplishments, and the significance of helping SMEs succeed. But as explained, the referenced assertions and related documents relate to whether she is well positioned to advance her endeavor under *Dhanasar*'s second prong, rather than its first prong, and thus do not show that her proposed endeavor would have substantial positive economic or societal effects indicating national importance.

The importance of the proposed endeavor, as noted, is evaluated by its specific potential prospective impact, rather than by the importance of the profession in which she proposes to engage based on her qualifications (or by the importance of other industries that may rely on various risk assessment tools). *Id.* at 889-890. The purpose of the national interest waiver thus is not to facilitate personal business or job opportunities in the United States. Anyone seeking such a waiver must demonstrate that the *specific* endeavor they propose to undertake has national importance. *Id.*

While we acknowledge the Petitioner's desire to contribute to the online SME assessment industry, the Petitioner has not established with probative evidence that her proposed endeavor will specifically further its objectives in a nationally significant manner, have broader implications in her field, have significant potential to employ U.S. workers, or have substantial positive economic or societal effects. The Petitioner has not met *Dhanasar*'s national importance prong and therefore has not established her eligibility for a discretionary national interest waiver.

As the identified ground for denial, the Petitioner's inability to satisfy *Dhanasar*'s first prong is dispositive of this appeal, we do not address here the second and third *Dhanasar* prongs for a national interest waiver. *See, e.g., INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to reach issues unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.

[3] The Petitioner also submitted below a revised business plan with similar figures to account for tax calculations and provide explanations for the projected cost and revenue breakdowns.