U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37779475

Date: JUN. 06, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a logistics entrepreneur in the transportation industry, 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).

SCOPS denied the petition, concluding that although the Petitioner qualified for classification as a member of the professions holding an advanced degree, he had not established 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. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

We set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver of the job offer, and thus the labor certification, to a petitioner classified in the EB-2 category if the petitioner demonstrates that (1) the noncitizen's proposed endeavor has both substantial merit and national importance; (2) the noncitizen is well positioned to advance the proposed endeavor; and (3) that on

[1] *See Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen 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.

The second prong shifts the focus from the proposed endeavor to the noncitizen. To determine whether the noncitizen is well positioned to advance the proposed endeavor, we consider factors including but not limited to the individual's education, skills, knowledge, and record of success in related or similar efforts. A model or plan for future activities, progress towards achieving the proposed endeavor, and the interest of potential customers, users, investors, or other relevant entities or individuals are also key considerations.

The third prong requires the petitioner to demonstrate that, on balance of applicable factors, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. USCIS may evaluate factors such as whether, in light of the nature of the noncitizen's qualification or the proposed endeavor, it would be impractical either for the noncitizen to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the noncitizen's contributions; and whether the national interest in the noncitizen's contributions is sufficiently urgent to warrant forgoing the labor certification process. Each of the factors considered must, taken together, indicate that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

II. ANALYSIS

The Petitioner proposes to operate his logistics company, [redacted] LLC, in [redacted] Florida. SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree. Thus, the remaining issue to be determined 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

SCOPS concluded that the Petitioner's proposed endeavor has substantial merit. SCOPS determined, however, that the Petitioner did not establish the proposed endeavor's national importance, that he is well positioned to advance it, and that, on balance, it would benefit the United States to waive the job offer requirement. On appeal, the Petitioner submits a brief along with copies of documents already in the record and requests that we conclude that he has met the three *Dhanasar* prongs. In his brief, the Petitioner highlights the evidence in the record and maintains that he has submitted sufficient documents to demonstrate his proposed endeavor's national importance.

While we do not discuss every piece of evidence individually, we have reviewed the record and have considered the Petitioner's eligibility for the national interest waiver. In his personal statement, the Petitioner states as follows:

> "My knowledge as a prospective consultant and my experience in the transportation business, have given me the necessary tools to take a bigger step forward and aim at new challenges. Those challenges and goals can be achieved in the United States, a nation that moves a large part of its economy through the transportation of cargo by road, but that shows some shortage in the supply chain. That is why I want to contribute with my knowledge and experience through the development of analysis, prospective studies and technology surveillance, to the application of innovation and development of technologies that would allow companies in the United States to anticipate the different changes that the industry will face, which like any change, involves risks and opportunities such as new technologies, new market entries, new customer expectations and new business models."

The record includes a business plan, resume, expert opinion letter, recommendation letters, information on government initiatives, and industry reports and articles related to logistics and supply-chain management.

The Petitioner highlights the challenges faced using autonomous vehicles and indicates that he hopes to contribute his knowledge and skills to identify emerging problems and develop innovative solutions and strategies with national standards and specifications that improve the safety and performance of road actors. He asserts that he will seek intervention and coordination with universities, research centers, virtual platforms or national and international entities to optimize road safety. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. The relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, 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.* 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. Here, the Petitioner also asserts that his proposed endeavor will "lead to a boost in the sale and marketing of [electric vehicles]." The Petitioner continues, "[t]he development of technology such as telematics or even the implementation of artificial intelligence, transmission of data in real time, which will allow strategic decision-making, will be very popular topics in the coming years due to the impact they represent for the world." The Petitioner further concedes that the industry will be challenged with reducing staff turnover, but he does not offer solutions to this anticipated attrition. The Petitioner has not demonstrated that his proposed endeavor will bring substantial economic benefit that would rise to the level of national importance.

The Petitioner emphasizes his professional experience as a business administrator and "master in strategic and prospective thinking." He states that he intends to provide specialized consulting services to state and private entities of the transportation industry. In his "national importance statement," he

maintains that the Department of Transportation and the Federal Motor Carrier Safety Administration, for example, will be at the forefront of new technologies facilitated by his research. However, he has not provided sufficient evidence to show that this claim is probable. He further argues that the U.S. will significantly benefit from foresight skills which has allowed him to "develop skills to identify and understand various factors susceptible to change in different areas, in order to serve and support the interests in terms of profitability, sustainability and innovation for the transport industry." However, the first prong focuses on the proposed endeavor itself, not the petitioner. *Id.* The Petitioner must establish that his specific endeavor has national importance under *Dhanasar's* first prong. Moreover, although an individual's experience, qualifications, contributions, and achievements are material, they are misplaced in the context of the first *Dhanasar* prong. The Petitioner's professional experience is generally material to *Dhanasar*'s second prong—whether an individual is well positioned to advance a proposed endeavor—but they are generally immaterial to the first *Dhanasar* prong—whether a specific, prospective, proposed endeavor has both substantial merit and national importance. *See id.* at 888-91.

The Petitioner, through his business plan, indicates that he will provide 160 consulting hours per month at $56.00 per hour; and generate an annualized income for the technical production unit of $107,520.00 per year, in years one through five. Further, the Petitioner declares that his proposed endeavor will positively impact the U.S. economy. However, based on the business plan, the Petitioner appears to be the sole employee. While the Petitioner provides some information about the basis of his projections, he does not adequately explain how he will realize revenue goals and have an impact on the national economy without staffing. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner has not established how his logistics consulting company has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to his future work, the record does not show that the benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

The Petitioner argues that his endeavor aligns with broader economic goals by directly contributing to the logistics industry and the overall U.S. economy through the provision of consulting services. He contends that he will generate substantial positive economic effects by supporting companies in their decision-making process, providing them with the analytical tools needed to foresee potential challenges; benefit private companies, public entities, and society through the management, planification, design, construction, inspection, supervision, and analysis of market opportunities to optimize transportation processes for people and products; enhance resource management and protect the interest of private companies and public entities; contribute to the advancement of the transportation industry, its infrastructure, and safety enhancement to adapt to forthcoming technological advancement through collaboration with multiple industry parties; and contribute to the U.S. economy and market competitiveness. As previously mentioned, 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. Here, the Petitioner has not demonstrated that his undertaking has implications beyond the companies and clients he elects to work with to impact the U.S. economy on a broad scale rising to the level of national importance. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of national importance because they would not impact his field more

broadly. *Id.* at 893. Similarly, the record here does not establish that the Petitioner's proposed endeavor's impact will be nationally important.

For the above reasons, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework. Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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 M-S-I-*, 29 I&N Dec. 61, 65 (BIA 2025) (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 that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.