U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35651303

Date: JUN. 09, 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 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 and fitness trainer who endeavors to continue her role as chief executive officer (CEO) of [redacted], with the goal of "optimizing wellness functions for U.S. companies.". Through Wellness Strength, the Petitioner intends to offer "a broad range of services within the health and wellness industry," including "providing objective advice regarding the optimization of fitness processes using respected industry methodologies, as well as implementing effective business development, and strategic planning."

SCOPS determined that though the Petitioner demonstrated her proposed endeavor has substantial merit and that she is well-positioned to advance the endeavor, she did not demonstrate the national importance of her 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. *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.* 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.

On appeal, the Petitioner asserts that SCOPS, in their denial decision, "did not apply the proper standard of proof . . . instead imposing a stricter standard, and erroneously appl[ying] the law, to the detriment of the [Petitioner]." The Petitioner also contends SCOPS "did not give due regard to" the evidence of record. The Petitioner does not, however, articulate how SCOPS specifically failed to give proper weight to the evidence, and our review on appeal reflects SCOPS considered the relevant evidence under the appropriate preponderance of the evidence standard.

We adopt and affirm SCOPS' decision and analysis of the first prong of the *Dhanasar* framework. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Martinez-Lopez v. Barr*, 943 F.3d 766, 769 (5th Cir. 2019) (joining every other U.S. Circuit Court of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

In its decision, SCOPS considered the Petitioner's "various staffing and revenue projections" from her business plan and her claim that her endeavor "will generate substantial ripple effects upon key commercial and business activities on behalf of the U.S." However, SCOPS determined the Petitioner's business plan's figures did not "offer any details showing their basis or an explanation as to how they will be realized," and that "[t]he record does not show a sufficiently direct connection between the proposed activities and a sufficiently broad impact." In addition, SCOPS noted that though "any basic economic activity and offering of goods or services has the potential to positively impact the economy," the Petitioner had not demonstrated "a potential prospective impact that is "substantial" to a particular area, region, or industry to have national importance." On appeal, the Petitioner reiterates her general claim that her proposed endeavor "has the potential to significantly contribute to the U.S. economy through job creation and broad economic impact," and again provides financial projections from her business plan. In addition, the Petitioner reasserts her "business strategy to locate her business headquarter and future branches on Hub Zones," referring to locations identified by the Small Business Administration. SCOPS found the Petitioner did not assert, and the evidence did not reflect, that the Petitioner's company "is participating or would participate in the HUBZone program or that it is eligible to participate in the HUBZone program." SCOPS further noted that the mere owning or operation of a business "in a designated HUBZone does not indicate that the endeavor rises to the level of national importance as contemplated by *Dhanasar*." On appeal, the Petitioner does not specifically address or otherwise overcome SCOPS' above determinations.

On appeal, the Petitioner adds that physical activity results in "significant economic benefits," through "contribution to health care savings and its effect on the economy." In support of this assertion, the Petitioner cites to statistics reflecting the likelihood of developing various ailments in less active individuals and corresponding medical care costs. However, SCOPS did not question the importance of physical activity in their decision. Rather, in relying on *Dhanasar*, SCOPS properly indicated a field's importance cannot be conflated with its national importance, as the focus is on "the specific endeavor that [a petitioner] proposes to undertake and . . . evidence documenting the potential prospective impact of the proposed endeavor." Here, the Petitioner has neither asserted nor established that the broader impacts of physical activity that she highlights through submitted statistics, reports, and articles, are directly attributable to her own endeavor. The Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor based on its impact on the U.S. economy or potential for job creation. Further, the Petitioner has not demonstrated her endeavor will sufficiently extend beyond Wellness Strength's clientele and its own company with broader implications in the field, and at a level of national importance.

Accordingly, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

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.

ORDER: The appeal is dismissed.