U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38597419

Date: JUN 10, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a pharmacists and entrepreneur, 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 petition, concluding 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.

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 doctoral degree is customarily required for the specialty, the alien must possess a U.S. doctorate or a foreign equivalent degree. *Id*.]

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation

that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[1] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. 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,[2] 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.

Id.

II. ANALYSIS

The Petitioner proposes to establish and operate a pharmaceutical consulting firm in [redacted] Florida. SCOPS found the Petitioner qualifies for the underlying EB-2 classification. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the proposed endeavor's national importance under the first prong of the *Dhanasar* analytical framework.

A. EB-2 Classification

With respect to the underlying EB-2 classification, SCOPS determined the Petitioner was eligible for the classification as a member of the professions holding an advanced degree but did so without sufficient analysis. The Petitioner claims that he has obtained the foreign equivalent of a bachelor's degree in pharmacy and biochemistry and a Master of Business Administration (MBA) in pharmaceutical marketing.

To establish the MBA degree, the Petitioner submitted evidence of completion of a *"lato sensu"* course certificate entitled "MBA [in pharmaceutical marketing]" from the [redacted] college in Brazil in 2023.[3] However, according to the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE),

[1] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).
[2] *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).
[3] The Petitioner also submitted evidence of earning a title of biochemical pharmacist from the Sao Paulo University in 2009.

a *lato sensu* course certificate is not necessarily evidence of completion of a graduate degree program.[4] The database states that *lato sensu* or "wide sense" graduate programs "lead toward a professional certificate, not to graduate degrees; graduate credits may be awarded."[5] The database contrasts this with *stricto sensu* or "strict sense" graduate programs which do lead toward graduate degrees.[6] The Petitioner submitted an evaluation of his academic credentials, asserting that the Petitioner's MBA in pharmaceutical marketing is "substantially similar to those required towards the completion" of a Master of Science in the United States. However, the database states that *lato sensu* programs are for professional development and specialization, and lead toward professional certificates instead of academic graduate degrees. Therefore, we conclude that the Petitioner has not established that his MBA certificate is the equivalent of an academic or professional degree above that of a bachelor's degree. *See* 8 C.F.R. § 204.5(k)(2).

As noted above, 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.* Here, the Petitioner submitted evidence of earning the foreign equivalent of a bachelor's degree in pharmacy and biochemistry. However, the Petitioner has not submitted evidence of post-baccalaureate progressive work experience "in the form of letter(s) from current or former employer(s) or trainer(s)" including the "name, address, and title of the writer, and a specific description of the duties performed by the alien or of the training received." *See* 8 C.F.R. § 204.5(g)(1). "If such evidence is unavailable, other documentation relating to the alien's experience or training will be considered." *Id.* The record, therefore, does not support the Petitioner's qualifications for EB-2 classification as an advanced degree professional. Accordingly, we will withdraw SCOPS' contrary finding.

The Petitioner could still qualify for the EB-2 category as an individual of exceptional ability. *See* section 203(b)(2)(A) of the Act. But, conducting further inquiry into the Petitioner's categorical eligibility such as by remanding the matter for SCOPS to issue a request for evidence seeking documentation of a U.S. advanced degree or foreign equivalent or a U.S. baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive, post-bachelor's experience in the specialty, or alternatively, evidence supporting eligibility as an individual of exceptional ability in the sciences, arts, or business, would serve no legal purpose. As the Petitioner is not eligible for a national interest waiver for the reasons discussed below, we do not reach and hereby reserve our determination of his eligibility for the underlying classification. *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").

B. National Interest Waiver: Substantial Merit and National Importance

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[4] We consider EDGE to be a reliable source of information about foreign credential equivalencies. *See Confluence Intern., Inc. v. Holder,* Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). *See also Viraj, LLC v. Holder,* No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013).

[5] *See* https://www.aacrao.org/edge/country/glossary/brazil for more information.

[6] *Id.*

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.*

The Petitioner intends to operate his pharmaceutical consulting firm, [redacted] to "elevate the quality of medical care by furnishing physicians with the latest insights on treatments and medications." He explains that the company will offer a "wide range of specialized services aimed at facilitating the introduction of new drugs and treatments for doctors and clinics, with a focus on improving access to the latest therapies." The record includes the Petitioner's academic transcripts, an expert opinion letter and recommendation letters, a business plan, letters of intent to invest, and industry reports and articles.

In denying the petition, SCOPS found that the Petitioner's proposed endeavor has substantial merit and national importance. SCOPS concluded, however, that the Petitioner failed to demonstrate that he is well positioned to advance the proposed endeavor, 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 previously provided documentation. The Petitioner contends that SCOPS "imposed novel substantive and evidentiary requirements" and denied the petition "contrary to applicable law and policy." After de novo review, we withdraw SCOPS' determination on national importance and conclude that the Petitioner has not satisfied the first prong of the *Dhanasar* framework requiring a proposed endeavor to be of national importance.

The Petitioner declares that his proposed endeavor advances the national interest by driving innovation within its niche, improving healthcare quality, and reducing costs, all while maintaining a strong focus on quality, efficiency, and multiple key objectives. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of the Petitioner's work. 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 [petitioner] 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, while the Petitioner's endeavor may have merit, the evidence does not establish that operating a pharmaceutical consulting business will have broader implications or influence in the field that will rise to the level of national importance.

The authors of the recommendation letters highlight the Petitioner's professional experience and expertise in the pharmaceutical distribution field. The author of the expert opinion letter also praises the Petitioner's expertise in "biotechnology, pharmacology, and innovative practices within the medical field." The author states that the proposed endeavor's national importance extends to "developing qualified human capital in the healthcare sector, a cornerstone for advancing medicine and maintaining the competitiveness of American healthcare on a global scale." The author also

emphasizes the importance of technological innovation in the pharmaceutical field, and states that the Petitioner's proposed endeavor is of national importance due to the "increasing demand in the United States for specialized pharmaceutical consulting tailored to the medical profession, focusing on the promotion and distribution of high-quality, innovative products." Here, although the Petitioner's endeavor may lead to advancements in the pharmaceutical sector, the record does not establish that the endeavor will have a measurable impact beyond the immediate community it serves to reach the level of national or even global impact. 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 and accomplishments are 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 contends that his proposed endeavor will contribute to the national economy through job creation. He claims that his pharmaceutical consulting firm will "create direct jobs in specialized consulting fields, including pharmacovigilance, regulatory compliance, and healthcare professional training." The Petitioner, through his business plan, further claims that by year five, his company will offer 16 direct jobs and generate net income of $199,200. However, the Petitioner does not provide sufficient detail regarding the basis for these projections or adequately explain how the proposed staffing targets and revenue forecasts will be reached. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. 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*. *See Dhanasar*, 26 I&N Dec. at 890.

The Petitioner proclaims that his pharmaceutical consulting firm will be "committed to economically disadvantaged areas, such as parts of South Florida and regions in the Southeastern U.S., which face economic development challenges and limited access to healthcare services." The Petitioner, however, has not shown that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for the United States. We are also not persuaded by the Petitioner's intention to operate his proposed endeavor within a Small Business Administration (SBA) designated HUBZone since the Petitioner has not adequately established what parameters the SBA considers when it establishes HUBZones. We therefore cannot evaluate whether these SBA-identified underutilized business zones are akin to the types of economically depressed areas within which creating employment could be a potential positive economic effect.[7] More importantly, the Petitioner has not offered sufficient information and evidence

[7] The HUBZone program's goal is to promote business growth in underutilized business zones by awarding 3% of federal contract dollars to HUBZone-certified companies. That certification makes a business eligible to compete for certain federal contracts in the "set-aside" category. There are several required qualifications to participate in the program, but the most dispositive one for our analysis today is that the business seeking to participate in the HUBZone program must be at least 51% owned by U.S. citizens, a community development corporation, an agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe. While it is unknown and the record is silent as to whether any federal programs exist in the "set-aside" category for endeavors like the one the Petitioner proposes, it appears as though the Petitioner's proposed endeavor would be wholly owned and controlled by the Petitioner and that the

to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance.

The Petitioner asserts that his proposed endeavor aligns with "federal programs prioritizing healthcare improvement and economic growth." As previously mentioned, in determining whether the proposed endeavor has national importance, 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." *Id.* at 889. Although the Petitioner argues that his endeavor aligns with government initiatives, alignment with government initiatives alone is not sufficient for national importance. Here, the record lacks adequate corroborating evidence that the Petitioner's contributions would be adopted or implemented on a national scale or result in broader impact to his field.

While we acknowledge [redacted] firm's potential to create jobs, the record does not establish how the Petitioner's specific proposed endeavor of establishing and operating a pharmaceutical consulting firm will have broader implications in his field, positively impact the U.S. economy, or generate direct and indirect jobs on a broad scale rising to the level of national importance.

C. The Remaining *Dhanasar* Prongs

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 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

The Petitioner has not established the national importance of his proposed endeavor, and he does not meet the first prong of the *Dhanasar* analytical framework. Consequently, the Petitioner has not demonstrated that he is eligible for or merits a waiver of the job offer and labor certification requirements in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.

Petitioner is not a U.S. citizen, a community development corporation, an agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe. We therefore question whether the Petitioner would even be eligible to participate in the HUBZone program.