U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38204710

Date: JUNE 13, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a systems engineer, seeks employment-based second preference (EB-2) immigrant classification as 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 the Petitioner established eligibility for the underlying immigrant classification but did not demonstrate 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 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.

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

Id.

[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).

The Petitioner, a systems engineer, intends to create [redacted], the proposed endeavor, and will use his "experience, knowledge and [his] good reputation" to "help [Engineering, Procurement, and Construction (EPC)] Companies and any other company in the industrial or commercial sector to improve their supply chain management processes through the implementation of business intelligence and automation tools through custom software." In a business plan, the Petitioner explains that he will provide these services to companies "in the states of Texas and Louisiana, and later … nationwide."

SCOPS concluded that while the Petitioner had established the substantial merit of the proposed endeavor, he had not shown that it was of national importance, as required under the first prong of the *Dhanasar* analytical framework.[2] It therefore denied the petition, finding that the Petitioner had not established that he was eligible for or otherwise merited a national interest waiver as a matter of discretion.

The first prong of the *Dhanasar* analytical framework, 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.*

On appeal, the Petitioner argues that the proposed endeavor is of national importance as it impacts a matter that a government entity has described as having national importance or is the subject of national initiatives. He references a presidential executive order relating to supply chains and a U.S. Department of Homeland Security document addressing the role that supply management plays in national security. While these documents indicate the importance of supply chain management to the Federal government, they largely focus on its role in managing supply chains and do not specifically show the government's interest in the Petitioner's proposed endeavor in a manner that may indicate that it rises to the level of national importance.

The Petitioner also asserts on appeal that the proposed endeavor has national implications within the field of supply chain management for EPC companies in the United States because it will maximize worker productivity; minimize duplicate handling of material; lower the chance of theft; reduce material waste; and improve budget accuracy and forecasting. To support this assertion, he generally references the evidence, in aggregate, provided with the initial petition and his response to SCOPS' request for evidence. He does not otherwise specify this evidence or explain how it demonstrates the national importance of the proposed endeavor. Even had he done so, upon de novo review, the record does not contain evidence sufficient to demonstrate the national importance of the proposed endeavor.

The record includes the Petitioner's personal statement, articles and executive orders about the field of supply chain management, a business plan for the proposed endeavor, copies of executive orders and federal studies, the Petitioner's diplomas, licensure, certifications, recommendation letters, and correspondence regarding the various projects that the Petitioner worked on for employers.[3]

[2] SCOPS further concluded that the Petitioner had not demonstrated that he was well positioned to advance the proposed endeavor and that, on balance, waiving the job offer requirement would benefit the United States.

[3] While we do not discuss each piece of evidence in the record, we have reviewed and considered each one.

The articles in the record address the importance of the supply chain management industry and field. 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 foreign national proposes to undertake." *Id.* Accordingly these articles are not sufficient to establish the national importance of the proposed endeavor.

The business plan explains that the proposed endeavor will improve the supply chain management of small and medium businesses in Texas and Louisiana by providing technological and managerial solutions to these companies. Per the Petitioner's personal statement, the proposed endeavor anticipates employing five personnel. We noted in *Dhanasar* that "we look for broader implications" of the proposed endeavor and 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. The Petitioner does not offer evidence to demonstrate or explain how hiring five employees shows the proposed endeavor's significant potential to employ U.S. workers. Further the Petitioner does not show that the proposed endeavor would provide substantial economic benefits to Texas, the region, or to the U.S. economy more broadly at a level commensurate with national importance. Therefore, he has not shown that the benefits to the regional or national economy resulting from his undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.*

The record also includes evidence of the Petitioner's education, skills, knowledge and record of success, such as his diplomas, professional certifications and licensure, letters of recommendation, and correspondence regarding the Petitioner's past projects. This evidence may be relevant to establishing that the Petitioner satisfies the second prong of the *Dhanasar* analytical framework, which focuses on the individual.[4] However, the first prong focuses on the specific endeavor that the individual proposes to undertake. *Id.* at 889.

As documentation in the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of the Petitioner's eligibility under the second and third prongs outlined in *Dhanasar*, as well as a review of the Petitioner's qualification for the underlying EB-2 immigrant classification therefore, would serve no meaningful purpose.[5] As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

[4] *See* 6 *USCIS Policy Manual* 5.D(1), https://www.uscis.gov/policy-manual.

[5] *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).