U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38364934

Date: JUN. 18, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an agro-industrial engineer, 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 Petitioner is eligible for a national interest waiver as a matter of discretion. 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 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.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Petitioner's proposed endeavor is to provide "specialized agro-industrial consulting services focused on enhancing quality management and operational efficiency within the U.S. agricultural and manufacturing sectors." SCOPS determined that the Petitioner established his eligibility for the EB-2 classification as a member of the professions holding an advanced degree. In addition, SCOPS concluded that the Petitioner's proposed endeavor is of substantial merit and that he is well positioned to advance the endeavor. However, SCOPS ultimately concluded that the Petitioner did not establish his proposed endeavor was of national importance, or 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. On appeal, the Petitioner contends, in part, that SCOPS failed to properly apply the national importance prong of *Dhanasar* and failed to provide a meaningful evaluation of submitted evidence. Upon review, we acknowledge that SCOPS provided a minimal analysis of the evidence, however, we agree with the conclusion that the record does not establish the Petitioner's proposed endeavor is of national importance and therefore he is not eligible for a national interest waiver as a matter of discretion.

A. EB-2 Classification

SCOPS concluded that the Petitioner qualifies for EB-2 classification as a professional with an advanced degree. The record contains evidence that the Petitioner obtained a foreign agro-industrial engineering degree. The record also contains an academic evaluation which states this degree is equivalent to a U.S. bachelor of science degree in agriculture. Additionally, the Petitioner submitted letters showing over five years of progressive experience. We conclude that the record establishes by a preponderance of the evidence that the Petitioner qualifies for EB-2 classification as a professional with an advanced degree.

B. National Interest Waiver

1. Substantial Merit

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's proposed endeavor aims to provide consulting

[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).

services to small and medium sized enterprises (SMEs) in the U.S. agricultural and manufacturing sectors with an emphasis on innovative solutions, workforce development, and strategic quality management to increase operational efficiency and economic resilience. The Petitioner contends this will result in higher productivity, sustainable growth, and economic stability. The record contains a business plan for the Petitioner's company and an expert opinion letter. In addition, the record contains articles about the role of engineering and technology in agriculture, the importance of small businesses to the U.S. economy, and information about the state of the manufacturing industry. We conclude that the record establishes the substantial merit of the Petitioner's proposed endeavor.

2. National Importance

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner contends that his proposed endeavor will have "broad national implications, particularly in operational efficiency, quality management, and sustainability practices, fields that are vital for maintaining the competitiveness of U.S. industries, specifically in [SMEs] his initiative will help to reduce operational risks, enhance regulatory compliance and employment rates, generate revenue streams, modernize production processes, and improv[e] energy efficiency." Further, the Petitioner highlights that his proposed endeavor aligns with national priorities and benefits numerous industries including manufacturing, agriculture, technology, environmental, international food markets, and SMEs. The Petitioner contends that SCOPS "fundamentally misinterprets" the first *Dhanasar* prong and erred in their focus on the proposed endeavor's impact to the Petitioner's direct clients and did not look at the cumulative implications within the field. We agree with the SCOPS decision. *Dhanasar* states that an undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances. *Id.* Although the record demonstrates the Petitioner could address certain challenges to benefit his direct clients; the record does not demonstrate how his services will address these challenges in the agriculture and manufacturing industries more broadly to have national or global implications as *Dhanasar* requires.

The Petitioner states that his business plan details the broader implications of his work, however, a petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. The Petitioner's business plan alone does not establish broader implications within the fields he proposes to impact. The business plan describes the services the Petitioner will offer his direct clients and the broader impact he intends for his services to have but does not establish that these services will lead to broader implications in the field. For example, the business plan states that the proposed endeavor will enhance food security. He states that, "[b]y empowering SMEs in the agro-industrial sector with advanced quality control and operational efficiency practices, [the proposed endeavor] will ensure a steady supply of safe and high-quality food products. This will not only meet domestic needs but also position the U.S. as a reliable food supplier on the global stage, contributing to national food security." The record does not establish how his consulting services working with SMEs will lead to meeting domestic needs or position the United States as a reliable food supplier on a global stage. In *Dhanasar*, we determined that the Petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Matter of Dhanasar*, 26 I&N Dec. at 893. Similarly, although he will be providing valuable consulting services to his direct clients, his consulting activities do not rise to

the level of national importance. Without additional evidence of a broader impact, the record does not establish the proposed endeavor's national importance.

The Petitioner contends that his proposed endeavor will broadly benefit the economy as his proposed endeavor aims to promote economic resilience and contribute to workforce development across SMEs. He contends that by assisting his clients to optimize their operations and adopt sustainability initiatives, this will lead to job creation, reduced operational costs, and the economic revitalization of underserved rural regions. In support of this, the Petitioner relies on the size of the agriculture and food industries as a whole, stating that they contribute over $1 trillion to the U.S. gross domestic product annually. He states that by providing his services he will "enhance their competitiveness and market reach. This in turn will create jobs, stimulate local economies and contribute to the overall economic prosperity of the nation."

While we acknowledge the size of the agriculture and food industries, the economic impact of an industry does not establish the economic impact of the Petitioner's proposed endeavor. *Dhanasar* states that an 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. *Matter of Dhanasar*, 26 I&N Dec. at 890. Here, while the record reflects that his proposed endeavor may support the economic growth of his direct clients, this does not establish substantial positive economic effects. The record contains industry articles and reports on the economic impact and benefits of industrial agriculture and the impact small businesses have on the economy. However, in determining national importance, the relevant question is not the importance or impact 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. We recognize the importance of the agriculture and manufacturing industries and the value of SMEs; however, working in an important field is insufficient to establish the national importance of the proposed endeavor. Here, the Petitioner improperly relies upon the importance of these industries and their economic impacts to establish the national importance of his proposed endeavor. Although he proposes to work in the industry and assist businesses in addressing challenges, the record does not establish his proposed endeavor will have "substantial positive economic effects." The industry reports and articles provide good background information on the industries he proposes to serve, the industry's importance to the U.S. government, and its substantial merit; however, without sufficient documentary evidence of the specific proposed endeavor's "substantial positive economic effects," the Petitioner's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

The record additionally does not establish that the Petitioner's proposed endeavor will have substantial positive economic effects in an economically depressed area. *Id.* at 890. The Petitioner contends that his proposed endeavor will contribute to revitalizing economically depressed regions. However, the business plan does not detail where the Petitioner's proposed business activities will be. In the business plan, under "Location of Operations," the Petitioner states that his business "will operate in the Agricultural Sector of the US, servicing across the nation." The record does not list any specific locations in order for us to determine if he will be working in economically depressed regions. The expert opinion letter discusses the economic challenges for SMEs located in rural areas of the "Midwest and South" as well as the unemployment rates in West Virginia. However, the record does not establish that the Petitioner will be working in these areas and therefore we cannot determine that

his work will have substantial positive economic effects, particularly in an economically depressed area. *Matter of Dhanasar*, 26 I&N Dec. at 890.

The Petitioner asserts that his proposed endeavor will directly create 20 jobs by its fifth year of operation. Additionally, the expert opinion letter states, that the Petitioner's endeavor "holds the potential to create a ripple effect throughout local economies by fostering job creation not only within the SMEs he assists by also across related industries. For every job created in the manufacturing and industrial sectors, 1.4 additional jobs are generated in the local economy. . . ." As previously stated, *Dhanasar* states that an endeavor that has significant potential to employ U.S. workers. . . , may well be understood to have national importance. *Id.* Here, the record does not establish that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers as the record does not establish his company's future staffing levels and business activity stand to provide substantial economic benefits. Specifically, the record does not support that the direct creation of 20 additional jobs in this sector will have a substantial economic benefit commensurate with the national importance element of the first prong of the *Dhanasar* framework. Further, the record does not provide additional information to establish what "ripple effects" would be directly attributable to the Petitioner's proposed endeavor such as how his endeavor would directly contribute to the creation of such jobs, what types of jobs it would create, or elaborate on how the endeavor will cause such effects, beyond operating as a consulting business. Therefore, the record does not establish the Petitioner's proposed endeavor 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.*

The Petitioner's business plan also includes training programs in the form of workshops, seminars, and on-site training to deliver customized training on quality control, operational efficiency, and sustainability practices along with providing staff trainings to improve practical skills related to these areas. The expert opinion letter states that the trainings will "contribute to the professional development of the U.S. workforce," however, as discussed above, in *Dhanasar*, we determined that the Petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Therefore, although we acknowledge the Petitioner's training programs would have a positive impact on his clients, this does not amount to a prospective impact that rises to the level of national importance as set forth in the *Dhanasar* framework.

Finally, the record discusses that the Petitioner's proposed endeavor impacts a matter that a government entity has described as having national importance. The expert opinion letter highlights initiatives such as the U.S. Department of Commerce's "Manufacturing USA" program as well as the Environmental Protection Agency's "Sustainable Materials Management" program. The record contains the U.S. Department of Commerce's Strategic Plan, "Innovation, Equity, and Resilience Strengthening American Competitiveness in the 21st Century" and information from the U.S. Small Business Administration on the economic profile of small businesses. Although the Petitioner asserts that his endeavor "impacts a matter that a government entity has described as having national importance or is the subject of national initiatives," as we addressed above, the relevant question for determining national importance is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the [Petitioner] proposes to undertake." *Id.* at 889. The Petitioner's reference to "a matter that a

government entity has described as having national importance or is the subject of national initiatives" in the context of determining whether the proposed endeavor may have national importance is misplaced because--regardless of whether a generalized industry or field may have national importance or is the subject of a national initiative--the record must nevertheless establish how "the specific endeavor that the [Petitioner] proposes to undertake" may have "national or even global implications *within a particular field,* such as those resulting from certain improved manufacturing processes or medical advances" or broader implications, such as "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Matter of Dhanasar* 26 I&N Dec. at 889-90 (emphasis added).

While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, remaining *Dhanasar* prong. *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).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that he is eligible for or otherwise merits a national interest waiver as a matter of discretion

ORDER: The appeal is dismissed.