U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41770603

Date: MAR. 4, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a health services manager, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional or 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 that the record did not establish that a waiver of the job offer requirement is 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 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.

[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).

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

II. ANALYSIS

SCOPS found that the Petitioner qualifies for the EB-2 classification based upon obtaining the foreign equivalent of a bachelor's degree in nursing followed by at least five years of experience in the specialty. *See* 8 C.F.R. § 204.5(k)(2). SCOPS denied the petition, however, finding that the Petitioner did not establish eligibility under any of the three prongs of the *Dhanasar* analytical framework. On de novo review and for the reasons discussed below, we agree with SCOPS that the record does not establish the national importance of the proposed endeavor and we will dismiss the appeal on that basis.

The Petitioner's proposed endeavor is to be a health services manager in the field of nursing. In the initial filing, the Petitioner did not describe the proposed endeavor in detail, stating only that she plans to advance her career by establishing a business "dedicated to providing home nursing care and training other professionals to work in this field." In response to SCOPS' request for evidence (RFE), the Petitioner provided a business plan to establish and operate a home healthcare business, [redacted], in [redacted] Ohio. The Petitioner states that the business will provide home healthcare services for seniors in addition to professional training services to prepare caregivers. In addition to the business plan, the Petitioner also submitted an opinion letter and articles and reports about the healthcare industry, particularly home health care for the elderly.

In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Id.* An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

On appeal, the Petitioner asserts that she has demonstrated her eligibility under each of the three *Dhanasar* prongs.[2] Regarding the national importance of the proposed endeavor, the Petitioner objects to SCOPS' finding that the benefits of the Petitioner's business would be limited to its individual patients and its finding that the endeavor's alignment with federal priorities was not sufficient to establish its national importance. The Petitioner claims on appeal that the business plan addresses each of these concerns based upon the business's potential job creation, its location in an "underserved market," and the professional training services that the business will provide. The Petitioner repeats the claims previously presented to SCOPS that the business plan provides forecasted revenue of approximately $3 million by year 5, projects total staff of 25 individuals by year 5, and "economic

[2] The Petitioner also submits new evidence on appeal in an attempt to demonstrate the endeavor's national importance. Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)); *see also* 8 C.F.R. § 103.2(b)(11) (requiring that in response to a request for evidence or notice of intent to deny, all evidence must be submitted together at one time and that submitting only some of the requested evidence will be considered a request for a decision on the record).

multipliers" that estimate an additional 25 indirect jobs. The Petitioner also repeats the claims that the endeavor advances federal initiatives to expand health care services and that the expert opinion letter describes the endeavor's national importance.

We do not find support for the Petitioner's claim on appeal that her business plan and the expert opinion letter sufficiently address the deficiencies identified by SCOPS in the decision. For example, the Petitioner emphasizes on appeal the business's financial projections and potential for job creation. But the revenue and job creation projections were specifically discussed in the decision—SCOPS concluded that these projections were not sufficiently supported by evidence and further that even if they were sufficiently supported, that they do not establish that her company would operate on a scale rising to the level of national importance contemplated in *Matter of Dhanasar*. The Petitioner does not address or overcome this finding. Similarly, regarding the Petitioner's claim that her endeavor is aligned with U.S. government initiatives, SCOPS noted that merely working in an important field is not sufficient to establish the national importance of the proposed endeavor, and found that the Petitioner had not provided a sufficiently direct connection between the proposed endeavor and any national initiatives, nor that her endeavor has the potential to broadly impact these national initiatives. Again, the Petitioner does not address or overcome these specific findings.

Moreover, on de novo review, we agree with SCOPS that the record does not establish the endeavor's national importance. In support of the endeavor's national importance, the Petitioner relies on the claims that her proposed endeavor will provide healthcare services, contribute to the economy, and is aligned with national initiatives. But in determining national importance, the relevant question 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 foreign national proposes to undertake." *Id.* at 889. The evidence does not establish that the Petitioner's specific proposed endeavor has the potential to impact the healthcare field or affect the economy at a level commensurate with national importance.

For example, the opinion letter submitted by the Petitioner primarily discusses the importance of the U.S. home healthcare market, repeats the business plan's job creation and financial projections, and the asserts that the endeavor relates to national initiatives. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, the opinion letter is of little probative value as it primarily repeats the Petitioner's claims about the importance of the field in general, rather than credibly describing the potential prospective impact of the Petitioner's proposed endeavor.

In *Matter of Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of national importance because they would not extend beyond his students to impact the education field more broadly. *Matter of Dhanasar*, 26 I&N Dec. at 893. The same is true here. The Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her patients or trainees to impact the healthcare industry or the U.S. economy at a level commensurate with national importance.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prongs. *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 that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.