U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40736008

Date: MAR. 6, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an electrician, 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).

SCOPS denied the petition, concluding that the Petitioner qualified for classification as an individual of exceptional ability, but that he had not established that 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.

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;

[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 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

A. Eligibility for Second Preference (EB-2) Classification

SCOPS concluded that the Petitioner qualifies as an individual of exceptional ability. We will reserve the issue of whether the Petitioner qualifies for the underlying EB-2 classification. The remaining issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

B. Eligibility for a National Interest Waiver

The Petitioner specializes in industrial maintenance and technical automation. His proposed endeavor is to provide consultation services for small and medium-sized businesses to optimize their energy efficiency through automation system design and integration, industrial equipment installation, and the maintenance and repair of electrical systems. His company would also offer technical training in North Carolina, Michigan, and Pennsylvania.

Although SCOPS determined that the proposed endeavor has substantial merit and that the Petitioner is well positioned to advance the endeavor, SCOPS concluded the record did not establish that the endeavor is of national importance or that, on balance, it would be beneficial to the United States to waive the job offer requirement and, thus, the labor certification. On appeal, the Petitioner reiterates arguments concerning his eligibility for a national interest waiver and cites documentation previously included in the record. While the Petitioner asserts that SCOPS misapplied the preponderance of the evidence standard, he does not articulate how SCOPS misapplied the standard in denying the petition. He further asserts that SCOPS erroneously applied the law, but he does not specify how SCOPS erred or what factors in the decision were erroneous.[2] Upon review, for the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his endeavor under the first prong of the *Dhanasar* analytical framework.

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.* 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.* In *Matter of Dhanasar*, we further noted that "we look for broader

[2] An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(1)(v).

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.

To provide context for his proposed endeavor, the Petitioner submitted reports discussing initiatives related to advanced manufacturing and clean energy technologies, energy efficiency in industrial sectors, the integration of smart technologies to improve the resilience of U.S. manufacturing, and cybersecurity risks to critical infrastructure. This documentation highlights important issues regarding infrastructure stability and the implementation of sustainable technologies in high energy-use sectors, and the Petitioner emphasizes that the alignment of his endeavor with the initiatives described demonstrates its national importance. However, it is not the overall importance of the industry, field, or profession in which an individual intends to work, but the particular endeavor on which an individual intends to embark that we consider in evaluating whether it is of national importance. *Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner has not provided sufficient evidence to demonstrate that his individual company's consultancy services would have an impact at a level of national importance.

More specifically, the Petitioner has not explained how he would undertake an endeavor of a scale that would reach the level of "substantial positive economic effects" contemplated by *Matter of Dhanasar*. *Id.* at 890. While the business plan offers an overview of the services the Petitioner intends to provide, the asserted national importance of his proposed endeavor relies on the general significance of automation in driving economic growth and competitiveness. He has not explained how his company would have a national-level impact beyond assertions that it will serve to advance those U.S. initiatives. He points to his intention to target the company's services towards underserved communities, stating that he believes his "endeavor will be applying and cascading his deep knowledge" to generate revenue totaling $7.24 million and wages totaling $3.35 million for 25 workers over five years. The business plan, however, does not explain how these forecasts were calculated or adequately clarify how these projections will be realized, nor has the Petitioner provided independent evidence or otherwise explained how his business would create jobs at a level that would have a significant impact in a region or have a prospective national impact on a specific field. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner also asserts that his company will address purported labor shortages in skilled trades in the United States "by providing technical training and support in automation and electrical systems, contributing to building a skilled workforce, aligning with national efforts to address labor shortages in critical sectors." We do not question the value of skilled-trade training opportunities or doubt the positive personal impacts for individual training program participants; however the record does not adequately support a determination that the Petitioner's training ventures offer broad implications for the skilled-trades workforce or for the economies in which individual positions may be filled. In addition, while his company's services would include training programs, in *Matter of 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. *See Matter of Dhanasar* at 893. Although the Petitioner's intent to provide training programs to fill labor deficits has merit, it is not evident from the record that his company's training activities would broadly impact the size of the workforce in the skilled trades.

Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process and are therefore not a justification for a waiver of that process.

Further concerning his proposed endeavor, the Petitioner provided an expert opinion letter from a university professor of manufacturing engineering. The letter discusses the services that the Petitioner intends to provide through his company, the market for those services, and the home automation services industry, largely reflecting information in the Petitioner's business plan. The letter concludes that the Petitioner's vision positions his company "as a valuable contributor to the home automation landscape, addressing consumer demands while fostering an industry integral to the future of sustainable living." The letter, however, does not offer information to illustrate how the Petitioner's company would more broadly impact the industry or the economy.

We observe that USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, *see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). Here, much of the content of the expert opinion letter lacks relevance and probative value with respect to the national importance of the Petitioner's proposed endeavor.

The Petitioner has not demonstrated that his proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects. While the business plan generally explains that his company's services would benefit the U.S. economy because they would facilitate the efficient operation of small and medium-sized businesses, these asserted impacts are not sufficiently supported by objective evidence related to his particular proposed endeavor. It is not clear how a business of the size and scope described in the business plan would have national or global implications, including by creating the claimed positive effects in the economy. The Petitioner has not provided sufficient evidence to show that he would employ a significant population of workers in a particular region, nor has he shown that his proposed endeavor would offer substantial economic benefits through employment levels, business activity, or tax revenue. As such, the record does not demonstrate that the prospective 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 Matter of Dhanasar* at 890.

The record does not establish the national importance of the proposed endeavor as required by the first prong of *Matter of Dhanasar*. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating 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 demonstrated that the proposed endeavor has national importance. As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

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.