U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40462415

Date: MAR. 10, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a web developer and digital designer, 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 the EB-2 classification as a member of the professions holding an advanced degree, 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

The Petitioner seeks to operate a business that will provide web development and digital training. SCOPS determined that the Petitioner qualified for the underlying EB-2 classification as an advanced degree professional. The remaining issue to be determined 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

In denying the petition, SCOPS concluded that the Petitioner did not establish the proposed endeavor's substantial merit and national importance, that he is well positioned to advance it, and that, on balance, it would benefit the United States to waive the job offer requirement. On appeal, the Petitioner asserts that SCOPS misapplied the applicable legal standards, failed to consider critical documents, and reached an erroneous conclusion. He maintains that his endeavor is of substantial merit and national importance "due to its alignment with national workforce shortages, technological competitiveness, and [science, technology, engineering, or mathematics (STEM)] education priorities." The record includes a resume, a business plan, letters of support, statements of intent to invest, as well as industry reports and articles. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

The Petitioner states that his endeavor involves launching and operating a web development consultancy and digital design training academy. He explains that the endeavor will combine "commercial [information technology (IT)] consulting with accessible, high-quality digital skills training, including free programming courses for underrepresented learners in New York" and will include "free or low-cost coding instruction for underserved populations, supporting national priorities in STEM equity and digital reskilling." In response to SCOPS' request for evidence, the Petitioner clarified that he intends to establish a web design academy startup that will offer IT consulting and online courses for learners, including "free courses for students facing financial constraints in New York." He indicates that his clients will be "small and medium enterprises," while the students will consist of individuals seeking "to learn the profession of web designer, enhance their skills in it, or simply acquire useful knowledge."

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 his web development and digital training consultancy will have broader implications or influence in his field that will rise to the level of national importance.

The Petitioner declares that his endeavor has "broad labor market implications and potential economic multiplier effects." He also states that his company's focus on developing a skilled workforce will contribute to economic growth. He further states that he expects to hire 23 employees and projects that the business will generate a net profit of $1,138,200 by the fifth year of operations. 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 asserts that he possesses "extensive knowledge and experience in an unusually broad range of areas, as well as in-depth hands-on experience in developing and conducting software programs that can greatly improve the professional environment and ultimately both boost the moral and increase productivity." In support of the petition, the Petitioner submitted letters of recommendation, which highlight his professional skills and experience. However, these letters do not discuss the Petitioner's specific proposed endeavor or offer concrete examples or detailed explanations demonstrating its national importance. Moreover, while these letters are supportive in tone and positive factors, they do not offer sufficient explanation of how the Petitioner's endeavor has the potential for broad and measurable implications for the country beyond impacting his company and its clients. Similarly, 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 is 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 Dhanasar*, 26 I&N Dec. at 888-91.

The Petitioner emphasizes that his proposed endeavor aligns with national initiatives by addressing the national labor shortage in the technology sector and providing IT and STEM education to "underserved learners." While we recognize the importance of the Petitioner's field, the relevant question when determining whether a proposed endeavor would have national importance 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 proposed to undertake. *Id.* at 889. Furthermore, alignment with general national goals, in and of itself, does not necessarily establish that the Petitioner's endeavor rises to the level of national importance. Here, the record does not include adequate corroborating evidence, to show that the Petitioner's specific proposed endeavor offers broader implications in his field, enhancements to U.S. societal welfare, or substantial positive economic effects for the country that rise to the level of national importance.

The Petitioner stresses the "national workforce shortage" and claims that his endeavor will address "urgent national labor shortages in [the] technology sector." Though we acknowledge the Petitioner's

desire to contribute to the technology field, the Petitioner has not provided sufficient evidence that his specific endeavor would resolve the shortage or that his endeavor would stand to provide substantial economic benefits in the United States. Although the Petitioner's endeavor may address needs in the field, the record does not establish that the endeavor will have a measurable impact beyond the Petitioner's employees and clients to reach the level of national or even global impact. 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. Here, the record lacks adequate corroborating evidence that the Petitioner's proposed endeavor offers broader implications in his field or substantial positive economic effects for the country that rise to the level of national importance.

For the aforementioned reasons, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework. 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.

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.