U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41808046

Date: MAR. 16, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 continue his work as an "AI Strategist Leader," to integrate artificial intelligence (AI) into business strategies which he states will "boost efficiency, innovation, and competitive edge." SCOPS determined that the Petitioner established his eligibility for the EB-2 classification as a member of the professions holding an advanced degree.[2] However, SCOPS further concluded that the Petitioner did not establish eligibility for a national interest waiver. On appeal, the Petitioner contends that SCOPS made "various erroneous conclusions of both law and fact in the decision." While we disagree with some of SCOPS' analysis, we conclude 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. The Record Establishes the Proposed Endeavor Has Substantial Merit

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* As stated above, the Petitioner's proposed endeavor is to continue his work as an "AI Strategist Leader," to integrate AI into business strategies to "boost efficiency, innovation, and competitive edge." He asserts that his proposed endeavor will generate positive impacts in the business and technology industries and that it aligns with government initiatives to support the advancement of AI. We conclude the Petitioner's proposed endeavor has substantial merit.

B. The Record Does Not Establish the Proposed Endeavor is of National Importance

As an initial matter, on appeal the Petitioner highlights various errors in the decision. He states these errors, "led to the misapplication of analytical criteria." First, he points to SCOPS' reference of the Petitioner as a "Software Engineer" or "Software Developer" in the decision and we acknowledge that the Petitioner's job title is listed as an "AI Strategist Leader." Further, the Petitioner states that SCOPS "incorrectly treats the Professional Plan as a Business Plan, applying standards of commercial viability rather than those of professional, institutional, and national impact[3]." Here, the record contains

[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).

[2] The Petitioner submitted a diploma, transcripts, and an academic evaluation as evidence of the equivalent of a U.S. master's of business administration in information technology management. SCOPS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree and we agree.

[3] On appeal the Petitioner also notes that the decision states that "the record does not indicate that the self-petitioner is

inconsistencies. The initial filing framed the proposed endeavor as a consultancy. The professional plan sets forth five objectives, which includes language of the Petitioner working directly with a company and customizing his project to their needs. For example, in the proposed endeavor's first listed objective, the Petitioner states that he will "[i]mplement AI-driven recruitment strategies for better workforce optimization." To do this he will "conduct a needs assessment with U.S.-based companies to identify recruitment challenges and opportunities." He will then "design and develop AI-driven tools tailored to specific organizational needs." Here, the record reflects a tailored service provided to clients. In addition, in support of his original professional plan, the Petitioner submitted an expert opinion letter. The author, B-W-, writes of the Petitioner's proposed endeavor as a part of the AI industry and the management consultant industry, emphasizing the "critical role consultants play in guiding businesses through technological advancements and market fluctuations." However, in the response to the request for evidence (RFE), the Petitioner contradicts this by stating that the proposed endeavor "is not a consulting arrangement or a limited-scope intervention; rather, it is a replicable institutional infrastructure. . . ." The Petitioner must resolve this inconsistency in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Here, the record contains unresolved, inconsistent statements on whether the Petitioner's proposed endeavor will be a tailored consultancy or a standardized framework.

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 record contains information about government initiatives in furtherance of the advancement of AI, such as the "American AI Initiative" and the "National Artificial Intelligence Initiative Act of 2020." While this evidence reinforces the Petitioner's statements about government support for the advancement of AI, it does not further the Petitioner's claim of his proposed endeavor's national importance. As stated above, in determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* While we acknowledge the importance of AI and the merit of the Petitioner's work in this field; the relevant question is not the importance of the field in which the individual will work; instead, we focus on the "the specific endeavor that the [Petitioner] proposes to undertake. *Id.* Here, the Petitioner improperly relies upon the importance of the industry to further establish the national importance of his proposed endeavor. Without sufficient documentary evidence of the specific proposed endeavor's broader impact on the industry, the Petitioner's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

Moreover, the record does not establish the national or global implications of the Petitioner's proposed endeavor. *Dhanasar* determined 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.* In the RFE response, the Petitioner contends that his proposed endeavor will have national or global implications and broadly enhance societal welfare, "[b]y establishing standardized, explainable AI systems that improve hiring, promotion, and succession planning, [the Petitioner's] endeavor strategically targets the 90% of U.S. businesses that are adopting AI to remain competitive." He further discusses his project's objectives

---

prepared to open or operate a business in the United States. There is no documentation in the record indicating that the petitioner has ever owned or established a business or successfully operated a business resembling the proposed endeavor." While the Petitioner contends that he never proposed to open or operate a business, we conclude this is more appropriate for a prong two analysis on if the Petitioner is well positioned to advance the endeavor as its focus is on the Petitioner's qualifications and not the endeavor's prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889.

for hiring practices and training programs. Whether his project is deployed as a consultancy or a standardized framework, the record does not establish how his endeavor will have broader implications. For example, his project will target "regional employers, community colleges, and public-sector HR departments." While he intends for his framework to expand to become a "unified national model," the record does not include sufficient supporting evidence to establish his proposed endeavor will have global or national implications.

The RFE response contains two letters of support to establish the global or national implications of his proposed endeavor. However, the letters lack corroborating evidence and lean on the Petitioner's past experience as support for their claims. For example, in the letter from M-M-, the author states that the Petitioner's "30% improvement in leadership diversity algins with national priorities for inclusive, competitive talent development." In the second letter written by K-L-, the author states the Petitioner's "proven methodology for achieving 20-35% efficiency improvements while maintaining regulatory compliance directly supports national productivity goals." First, both authors offer unsupported statistics in their letters. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. Here, the letters provide statistics, without evidence to support their validity. Further, if we were to accept the validity of their statements, the authors use the Petitioner's past work as support for the impact of his proposed endeavor. While we acknowledge the Petitioner's experience in the field; evidence of the Petitioner's past success and experience is relevant to *Dhanasar's* prong two analysis, on whether the petitioner is well-positioned to advance the endeavor. It does not establish the national importance of the proposed endeavor as its focus is on the Petitioner's qualifications and not the endeavor's prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. Therefore, evidence of the Petitioner's past experience, even if successful, does not sufficiently establish the national importance of the proposed endeavor. *Id.* at 890.

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. *Id.* The Petitioner asserts his proposed endeavor will lead to job creation and will drive substantial economic benefits as it will "streamlin[e] hiring, reduc[e] turnover costs, increas[e] productivity, and enabl[e] companies to reinvest in workforce development." However, as stated above, while the record establishes the proposed endeavor may have a positive impact on those that use the Petitioner's services, or framework, the record does not establish broader implications. Similarly, while the proposed endeavor may have economic impacts on the companies that use the Petitioner's work, the record does not demonstrate broader, significant economic impacts as *Dhanasar* requires. Here too, the support letters in the record discuss economic impact, but in general, uncorroborated terms. For example, the letter by M-M- states that the Petitioner's, "bias mitigation algorithms tackle the $1.33 trillion annual cost of workforce disengagement, directly supporting U.S. economic competitiveness." In addition, the other letter from K-L- states the Petitioner's "bias-free recruitment algorithms align with federal priorities for equitable AI deployment, addressing both efficiency and fairness concerns that are central to sustainable economic growth." However, the record does not include evidence to support these statements such as how his bias mitigation algorithms tackle this cost or what quantifiable economic impact his proposed endeavor will have.

The Petitioner generally states that his endeavor will lead to job creation, however the record lacks specificity and support for these assertions. As stated above, a petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. For example, the Petitioner does not include information about what types of jobs his specific proposed endeavor will create, where they will be created, or how many jobs he will create. Therefore, there is not enough information about the jobs in order for us to conclude his proposed endeavor has significant potential to employ U.S. workers. Further, the Petitioner asserts that his proposed endeavor will have an impact on "underserved counties where labor market volatility, disengagement, and underemployment limit access to nationally scalable job opportunities." However, the record only establishes that the Petitioner will deploy his proposed endeavor in Texas; more specifically [redacted] and [redacted] and does not specify which underserved counties his proposed endeavor will serve for us to be able to conclude his proposed endeavor will have substantial positive economic effects in an economically depressed area. 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. *Matter of Dhanasar*, 26 I&N Dec. at 890.

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* 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 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.

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.