U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42075703

Date: MAR. 25, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a program manager and entrepreneur in the field of social work, seeks classification as a member of the professions holding an advanced degree. *See* section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this employment based second preference (EB-2) classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i).

Service Center Operations (SCOPS) denied the petition, concluding although the Petitioner qualified as an advanced degree professional, she did not establish 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.

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.

Id.

II. ANALYSIS

The Petitioner's proposed endeavor is to establish a company aimed at helping students overcome mental health challenges via a mobile platform and by consulting with youth service systems and public agencies. She explains that the mobile platform will extend beyond students and support school staff and parents.

A. EB-2 Classification

The Petitioner submitted her U.S. master's degree in social work, social policy, and social administration, along with her academic transcripts. SCOPS determined the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether she qualifies for and merits a waiver of the job offer requirement in the national interest.

B. Substantial Merit and National Importance

The first *Dhanasar* 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.* SCOPS determined that the Petitioner's proposed endeavor was of substantial merit, and we agree. However, SCOPS concluded the Petitioner did not establish that her proposed endeavor has national importance.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we noted that, in assessing national importance, "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.

[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).

On appeal, the Petitioner asserts SCOPS erroneously imposed a higher standard of proof than a preponderance of the evidence and disregarded key evidence. Upon review, we disagree with the Petitioner that SCOPS imposed a higher standard of proof.

With respect to the standard of proof in this matter, a petitioner must establish that it meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. In other words, a petitioner must show that what it claims is "more likely than not" or "probably" true. To determine whether a petitioner has met this burden under the preponderance standard, USCIS considers not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, SCOPS properly analyzed the Petitioner's documentation and weighed the evidence to evaluate the Petitioner's eligibility by a preponderance of evidence.

In addition, the Petitioner's reference to her prior work experience and progress towards the proposed endeavor in support of the first *Dhanasar* prong are misplaced. The Petitioner's education, skills, experience, and her progress towards achieving her proposed endeavor are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the Petitioner has demonstrated, by a preponderance of the evidence, the national importance of her proposed endeavor.

In *Dhanasar*, we also determined 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. Likewise, the Petitioner has not established how providing her "novel technology" and consulting services stands to sufficiently extend beyond her business and her future clients to impact the field more broadly at a level commensurate with national importance. On appeal, she asserts that her proposed endeavor has national implications within the field of social work. She explains that her endeavor is "targeted at addressing societal problems that impact Americans around the country" and that she plans to expand her business "to multiple schools by 2026 and, over the next decade, to reach 500+ schools and more than 250,000 students." The record includes emails and letters of intent from potential clients. The Petitioner, however, has not provided sufficient evidence demonstrating that her proposed business activities would operate on such a scale as to rise to a level of national importance. While we acknowledge the emails and letters of intent, the evidence does not establish the proposed endeavor's national importance because they only highlight that the endeavor's impact is to the individual client or companies that hire the Petitioner to provide her services. Here, we conclude the Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her future clients to impact the field of social work, the economy, or U.S. societal welfare more broadly at a level commensurate with national importance.

Moreover, we acknowledge that the *Dhanasar* decision contemplates "[a]n 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.* at 889. But the Petitioner has not established the extent to which her proposed endeavor's mobile platform technology differs from or improves upon those already available and in use in the United States such that her proposed endeavor would have national or global implications within her field or for the United States.

Furthermore, the Petitioner highlights the expert opinion letters from two licensed clinical social workers. While S-S-Z- discusses the proposed endeavor and its claimed benefits, her opinion is largely conclusory and does not adequately explain how the Petitioner's work would produce such nationally important impacts. [2] For example, S-S-Z- opines that the Petitioner's proposed endeavor will "help increase graduation rates, reduce recidivism, and foster emotional resilience" which "will benefit public safety, workforce readiness, and social cohesion." But beyond these generalizations, S-S-Z- provides little explanation or corroborating evidence directly linking the Petitioner's company to these claimed benefits, industry wide impact, or other substantial positive economic or societal effects.

The letter from J-E-M- focuses on the importance of the mental health industry, the impact of early intervention in mental health plays in the U.S. economy, and how the Petitioner's experience in youth justice would be beneficial in the United States. It also broadly claims the Petitioner's endeavor will reduce "public spending on emergency response, special education placements, and incarceration, while simultaneously improving long-term workforce readiness and civic engagement." In addition, J-E-M- highlights that there is a shortage of trained mental health professionals but J-E-M- does not provide any evidence that there is such a shortage. Nevertheless, the national shortage of mental health professionals is not, in and of itself, sufficient to establish the national importance of the Petitioner's endeavor.[3] Because the opinion letters do not support their conclusory statements with supporting information material to the issue of whether the specific endeavor the Petitioner proposes to undertake may have the type of broader implications indicative of national importance, they do not support the conclusion that the proposed endeavor may have national importance, as contemplated by the first *Dhanasar* prong.

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 noncitizen'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).

In addition, the Petitioner contends SCOPS erred in disregarding the evidence about youth mental health, youth crime, recidivism, and public safety areas of inquiry within the field of social work. While we acknowledge that the evidence shows "the nationwide youth mental health crisis and resulting strain on law enforcement," SCOPS correctly noted that evidence showing the national importance of the industry or profession, in general, is insufficient to establish the national importance of the specific proposed endeavor. As discussed in *Dhanasar*, the relevant question is not the importance of the industry or profession in which the individual will work, but whether the specific proposed endeavor has broad enough implications to be considered of national importance. *Matter of Dhanasar*, 26 I&N Dec. at 889. Here, because the submitted evidence did not specifically concern her endeavor, the information contained in the reports and articles is probative of the importance of the mental health and criminal justice industries and the professions within these industries, but the

[2] Portions of the letter from S-S-Z- are fuzzy and not legible.
[3] The Department of Labor directly addresses U.S. worker shortages through the labor certification process.

information is not sufficiently probative to establish that her specific proposed endeavor is of national importance. *See Matter of Chawathe*, 25 I&N Dec. at 375.

We also reviewed the Petitioner's letters of recommendation. The authors praise the Petitioner's abilities and the personal attributes that make her an asset in the field of social work. For instance, one letter states that the Petitioner "has a comprehensive educational and experiential foundation that combines direct social work with policy development, interdisciplinary research, and social science theory." Another letter states that the Petitioner's "subject matter expertise and dedication have helped shape an evolving juvenile justice framework with lasting, statewide impact." While the letters evidence the high regard the Petitioner's colleagues have for her and her work, they do not offer persuasive detail concerning the impact of her proposed endeavor or establish how such an impact would extend beyond her future clients. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

Finally, the Petitioner has not demonstrated that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. *Matter of Dhanasar*, 26 I&N Dec. at 890. The Petitioner claims she will be able to create three to five jobs within the first year of operations and that she "can easily create at least 10 full time jobs for U.S. workers." However, the Petitioner's claims are unpersuasive. Without evidence regarding any projected U.S. economic impact or job creation directly attributable to her future work, the record does not show any benefits to the U.S. regional or national economy resulting from her work would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.*

III. CONCLUSION

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address her eligibility under the remaining prongs, and we hereby reserve them. *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 alternate issues on appeal where an applicant is otherwise ineligible). The burden of proof is on the Petitioner to establish that she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that she has not established eligibility for 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 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.