U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41983834

Date: MAR. 27, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an electronics engineer, 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 did not qualify for classification as an advanced degree professional and 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 issue 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.[2]

The Petitioner is an engineer working in the television broadcasting and streaming industries. His proposed endeavor is to own and operate a business offering services to "enhance the capabilities of small and medium-sized enterprises" in those industries. According to his business plan, his company will provide technical support, signal wiring and monitoring, equipment installation and maintenance, industry standard compliance consultancy, workforce training programs, and workflow optimization services focused on "improving efficiency across the design, installation, and configuration phases."

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 the national importance of the endeavor 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 asserts that SCOPS did not consider all of the evidence of record, and he reiterates arguments concerning his eligibility for a national interest waiver. 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 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. If the evidence of record demonstrates that an individual's proposed endeavor has the significant potential to, for example, contribute to the

[2] While SCOPS concluded that the Petitioner did not qualify as an advanced degree professional under 8 C.F.R. § 204.5(k)(1)-(2), because our conclusions concerning his eligibility for a national interest waiver are dispositive of the appeal, we will reserve the issue of whether the Petitioner qualifies for the underlying EB-2 classification. *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).

advancement of a valuable technology or field of study, it may rise to the level of national importance.[3] Regarding an endeavor in the fields of science, technology, engineering, or math (STEM), importance may be found in its contribution to U.S. competitiveness or security in a variety of circumstances, such as when it will help the United States remain ahead of strategic competitors or current and potential adversaries.[4]

USCIS recognizes the importance of progress in STEM fields and the essential role of persons with advanced STEM degrees, especially in focused critical and emerging technologies or other STEM areas important to U.S. competitiveness or national security.[5] However, a proposed endeavor does not necessarily carry national importance based solely on its relationship to a critical and emerging technology; when evaluating the national importance of a proposed endeavor, 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. *Matter of Dhanasar*, 26 I&N Dec. at 889. And we note that the Petitioner also emphasized the importance of his proposed endeavor based on purported shortages of electrical engineers, but the shortage of an occupation does not render a proposed endeavor nationally important under the *Dhanasar* framework.[6] In fact, such shortages are directly addressed by the U.S. Department of Labor through the labor certification process.

To provide context for his proposed endeavor, the Petitioner submitted documentation containing information about broadcast television and digital streaming, media and communication in governance, and government initiatives related to vaccinations and immigration. Letters of recommendation from individuals who are familiar with the Petitioner's work highlight his contributions as an engineer for [redacted], and [redacted]. While this documentation contains information about the field in which the Petitioner intends to work and his abilities as an engineer, it does not illustrate how the Petitioner's endeavor to offer consulting and technical services to small and medium-sized enterprises would impact the field of television broadcasting or digital streaming more broadly.

For example, the letter from A- S- at [redacted] generally describes the Petitioner's endeavor and asserts that the endeavor "address[es] the surging need for advanced television systems and streaming services and [] contribute[s] to knowledge exchange and technological advancements in the industry." However, the author does not explain how the Petitioner's endeavor will address demands for services to impact the field at a level commensurate with national importance. Instead, most of the letter consists of the author's description of the Petitioner's role at [redacted] and his expression of confidence in the Petitioner's skills. The letter from G- H- at [redacted] also includes an identical description of the endeavor without further explanation of any larger impacts resulting from the Petitioner's activities; the letter similarly emphasizes the Petitioner's skills and contributions to his employers. While the Petitioner may have offered technical skills and specialized knowledge in his roles for his employers, these letters do not sufficiently demonstrate that his individual endeavor stands to have broader implications for the field.

[3] *See generally* 6 *USCIS Policy Manual* at F.5(D)(1), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5.
[4] *See generally* 6 *USCIS Policy Manual, supra*, at F.5(D)(2).
[5] *Id.*
[6] *See generally* 6 *USCIS Policy Manual, supra,* at F.5(D)(3).

His business plan also uses generalize descriptions of his intentions regarding his endeavor. The business plan states that he intends to modernize legacy systems for next-generation media delivery, and that his company will focus on empowering television stations, cable companies, and audiovisual content production firms by enabling them to design, install, and maintain advanced television systems. The company will "increase communication infrastructure, boost [the] competitiveness of [the] television industry, and promote technological innovation in the U.S. by improving the quality and reliability of television and streaming services by optimizing signal transmission across air, satellite, cable, and internet platforms." The company "seeks to make a significant impact on the U.S. television technology landscape, driving innovation, supporting economic growth, and improving the efficiency and quality of television content creation and distribution nationwide."

The Petitioner has outlined an expansive endeavor. However, he has not provided a cohesive proposal for how he will undertake the widespread ambition he envisions. The business plan states that his company will develop strategic partnerships and collaborative opportunities within the television and multimedia industry, cultivating relationships with key stakeholders, including content creators, broadcasters, and technology providers to position the company as a trusted partner in delivering innovative solutions. This assertion presumes collaborations without the support of a plausible plan to facilitate them. Although considerations concerning an individual's plan to pursue an endeavor are related to *Dhanasar's* second prong, they are relevant to evaluating an endeavor's national importance. Whether an endeavor can realistically be carried out is pertinent to an assessment of its prospective potential impact.

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. *Matter of Dhanasar,* 26 I&N Dec. at 893. Here, the Petitioner has not explained how his proposed endeavor to offer consultancy services would have a broader impact beyond the businesses utilizing those services. The Petitioner mainly relies on the importance of maintaining and modernizing equipment to meet service demands to demonstrate the importance of his proposed endeavor, rather than any prospective positive impact resulting from the endeavor itself. 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. *Id.* at 889.

The Petitioner has not demonstrated that his proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects. The business plan shows that his company will have a net profit of $97,958 with sales totaling $1,680,900 over five years, creating 19 jobs (including his own position) and payroll expenses totaling $1,054,770. The business plan, however, does not explain how these forecasts were calculated or adequately clarify how these projections will be realized. We acknowledge the Petitioner's assertion on appeal that the projections are not speculative because they are "grounded in detailed operational calculations that explain how revenue will be generated and how the projections for Year 5 were derived." As he further states on appeal, the business plan identifies distinct revenue streams with defined hourly rates and "expected service hours"—amounts of time which the business plan anticipates charging customers but for which the business plan does not provide an objective source or basis. The Petitioner has not provided independent evidence or otherwise explained how his business would affect the economy or 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.

While the business plan includes generalized claims about how his company's services would benefit the U.S. economy, the asserted impacts are not sufficiently supported by objective evidence related to his particular proposed endeavor. 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. It is not clear how a business of the size and scope described in the business plan would have national or global implications. 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,* 26 I&N Dec. 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. at 25.

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.