U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37435082

Date: MAY 01, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a pharmacist and consultant, 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's eligibility for a national interest waiver. 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;
- The individual is well-positioned to advance their proposed endeavor; and

[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 balance, waiving the job offer requirement would benefit the United States.

Id.

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.*

II. ANALYSIS

The Petitioner describes her proposed endeavor as the creation of a "counseling-type information platform" to combat prescription medication misuse and addiction; this platform will evolve into a multidisciplinary and holistic team. She would use her pharmaceutical and business experience to manage the company.

SCOPS found the Petitioner qualified for underlying EB-2 classification given her advanced degree. However, SCOPS determined that the Petitioner had not met the *Dhanasar* requirements for a waiver of a job offer and labor certification from a U.S. employer. Specifically, the Director concluded that the national importance of the endeavor had not been demonstrated under prong one, and that the Petitioner had not shown that a waiver of the job offer requirement would be beneficial as required by prong three.

The Petitioner's appeal brief appears to reflect some confusion; it states that SCOPS found the first prong of *Dhanasar* had been met, but that the Petitioner had not demonstrated the requisite "national impact." For clarity, we note that there is no national impact standard under our *Dhanasar* precedent. Rather, the *Dhanasar* framework focuses, in prong one, on a proposed endeavor's substantial merit and national importance. While SCOPS found the proposed endeavor to have substantial merit, it did not find the endeavor to be nationally important. Therefore, SCOPS' overall determination was that prong one had not been met. We agree.

On appeal, the Petitioner argues that she has established the national importance of her endeavor. She relies on evidence including, but not limited to, expert opinion letters, letters of support, letters of interest from healthcare partners, a business plan, and proof of her educational and professional background as a pharmacist and consultant. The Petitioner contends that approval is warranted given the "well-being of the health of the part of the population that could improve its quality of life, preventively and at the same time, healthier in the aspect of substance abuse." The Petitioner highlights that the endeavor proposes to create jobs at various professional levels, as outlined in the business plan. In addition, she notes that the program will have a broader impact as it is implemented by partner organizations.

After de novo review, we conclude that the Petitioner has not satisfied the first prong of the *Dhanasar* framework requiring a proposed endeavor to be of national importance. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of the proposed endeavor. *Id.* at 889. An endeavor

may have an impact rising to the level of national importance "because it has national or even global implications within a field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* An endeavor may also have other broader implications that make it nationally important, such as the "significant potential to employ U.S. workers" or other "substantial positive economic effects." *Id.* at 890. The Petitioner broadly asserts that her proposed endeavor demonstrates these types of impacts, but the record does not support this contention.

In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of national importance because they would not impact his field more broadly. *Id.* at 893. Throughout the Petitioner's filings, she highlights her strong qualifications as a pharmacist. She also addresses the opioid crisis in the United States and her plan to combat this crisis through educational outreach and consulting work. She emphasizes the overall importance of the healthcare sector (and prescription medication in particular) to the U.S. economy. She argues that her proposal can aid in reducing the financial strain on the healthcare systems and businesses.

While we do not discount the benefits that users of her platform could obtain, the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond the individual users of her platform to impact the healthcare industry or otherwise impact economic initiatives more broadly at a level commensurate with national importance. Furthermore, 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.

The Petitioner argues that her endeavor aligns with national initiatives to combat opiate addiction in the United States; she contends that her pharmaceutical and business background would make her work impactful and provide benefits in line with these initiatives. However, the Petitioner has not shown by a preponderance of the evidence that her work will offer the type of "improved manufacturing processes" or similar outcomes in the United States that would be considered nationally important to the field. *Id.* at 889.

The Petitioner has also not demonstrated by the preponderance of the evidence that the proposed endeavor would have a substantial economic benefit. The Petitioner relies on her professional plan to establish the endeavor's national importance; this plan reflects an anticipated payroll of 12 full- and part-time employees totaling half a million dollars by year five of operation. It further states that the total number of employees "will be unlimited because it will be based on the number of cities, counties and States where the program is to be implemented." The Petitioner also argues that her work would contribute to labor force revitalization, as it would help to stem premature mortality and workplace absenteeism. She contends that each dollar spent on her treatment would save four dollars in healthcare costs and seven dollars in criminal justice costs.

The projections in this business plan are unsupported, and it is unclear how the proposed growth will occur. The Petitioner contends, for instance, that she will obtain high returns in all five years. However, it is unclear where these returns will be made; the Petitioner states that she will have $180,000 in income in year one but will also have $180,000 in payroll expenses. Other evidence submitted in support of the proposed endeavor is similarly contradictory. The Petitioner claims, for instance, that she has obtained a letter of interest for use of her platform from a prescription healthcare provider. However, the Petitioner's proposed endeavor is not mentioned in that letter. Instead, the

author discusses the "potential of a role...in our organization's Research and Development department. This could eventually put you on the path to the Director of the department."

Ultimately, the record does not demonstrate that benefits to the regional or national economy resulting from the Petitioner's undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890. Although the Petitioner has highlighted her substantial professional background and noted the urgent need to address the opioid epidemic, our analysis in prong one must focus on the impact of the proposed endeavor, rather than the characteristics of the petitioner or the importance of the field as a whole.

Because the record does not establish the national importance of the proposed endeavor, the Petitioner has not demonstrated eligibility for a national interest waiver. We reserve opinion on whether the Petitioner could satisfy the remaining eligibility criteria to qualify for a national interest waiver. *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 shown that the proposed endeavor is of national importance. Because he has not met the first prong of the *Dhanasar* analytical framework, we find that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.