U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42654241

Date: MAY 4, 2026

Motion on Administrative Appeals Office Decision

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

The Petitioner, an entrepreneur in the field of Science, Technology, Engineering and Mathematics (STEM) education, 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 Petitioner qualified for the classification as a member of the professions holding an advanced degree but did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal. The matter is now before us on motion to reconsider.

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). Upon review, we will dismiss the motion.

I. LAW

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

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: 1) the proposed endeavor has both substantial merit and national importance; 2) the individual

[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).

is well-positioned to advance their proposed endeavor; and 3) on balance, waiving the job offer requirement would benefit the United States. *Id.*

II. ANALYSIS

Our prior decision, incorporated herein by reference,[2] concluded that the record did not establish the national importance of the Petitioner's proposed endeavor, which is to "develop a Computer Science Coding Academy in [redacted], Texas focused on providing training for teens, women, and Hispanic populations in the United States, all demographics where an immediate need for Computer Science training exists."

Now on motion to reconsider, the Petitioner submits a brief that partially repeats the same language that appeared in his appeal brief, including quoting passages from SCOPS' decision. Therefore, we need not discuss the Petitioner's contentions that reargue facts and issues that we have already considered in our previous decision. *See, e.g., Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (providing that a motion to reconsider is not a process by which a party may submit, in essence, the same brief already submitted and seek reconsideration by generally alleging error in a prior decision). We will then evaluate the Petitioner's claims that directly address our prior decision, as shown in the latter portion of his brief.

First, the Petitioner claims that our prior decision "fails to review the detailed Business Plan, and related documentation in totality," and "ignores majority of the evidence submitted to establish that the Applicant has extensive record of success in a similar endeavor in Mexico and has generated significant interest in the endeavor among investors and leaders in the STEM and STEM Education field, as well as other evidence supporting his accomplishments in the field."

We acknowledge that the Petitioner's business plan discusses his endeavor, benefits to the United States, market analysis, financial objectives, funding sources, personnel projections, and cashflow forecasting. The Petitioner also provided "Basis of the Business Plan" statement, listing his past experiences in researching computer coding academies in the United States and Mexico and operating a STEM academy in [redacted] from 2016 to 2019. However, the provided basis for the business plan relies on the Petitioner's educational background, his record of success as an entrepreneur of a computer coding academy in Mexico, and past experiences as a STEM consultant and employee of technology companies. Such evidence relates to *Dhanasar*'s second prong, whether the Petitioner is well-positioned to advance the proposed endeavor, which shifts the focus from the proposed endeavor to the individual.[3] *Dhanasar*, 26 I&N Dec. at 890. Instead, the issue at hand is whether the evidence demonstrates that the Petitioner meets the first prong, which focuses on the specific endeavor that he proposes to undertake and its "potential prospective impact." *Id.* at 889.

Here, the Petitioner has not provided independent and objective evidence that corroborates his own business plan and basis statement. On motion, the Petitioner resubmits the information in the basis

[2] Our previous decision in this matter was ID# [redacted].

[3] To determine whether they are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.*

statement, projecting that the academy will open locations "every 2 years, where each location has three classrooms" with about 110-160 enrolled students per location and staff consisting of "1 campus manager [the Petitioner], 1 sales/marketing person, 1 technological lead/lead instructor, and 3 facilitations (one per classroom), and 1 customer support person." However, the record does not sufficiently elaborate on the nature or numerosity of staff and students and the business plan's projected numbers and activities to support claims of national or global implications in the field, extending beyond individual students who will study at the Petitioner's academy. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 375-76. Any offer of goods or services has the potential to impact the economy; however, the record does not adequately demonstrate that his academy would operate on such a large scale to show "significant potential to employ U.S. workers" or "substantial positive economic effects" rising to the level of national importance. *Dhanasar*, 26 I&N Dec. at 889-90.

Secondly, the Petitioner contends that our prior decision's focus on the business plan ignores USCIS' guidance, citing to USCIS Policy Alert PA-2025-03,[4] which states that "merit may be established without immediate or quantifiable economic impact" and "endeavors related to research, pure science, and the furtherance of human knowledge may qualify" whether or not they translate into economic benefits.

However, we do not find the Petitioner's contention persuasive. Our previous decision properly considered different aspects of the endeavor's impact, not just immediate or quantifiable economic impact. Per *Dhanasar*, we addressed whether his endeavor has significant potential to employ U.S. workers or has other substantial positive economic effects, but also weighed the Petitioner's other claims, that his endeavor addresses "a critical national shortage" of STEM professionals in the United States, that it promotes social welfare, and that it affects the field of STEM by producing STEM trained workforce.

The Petitioner has repeatedly asserted that his methodology is unique as it "lies in its AI [artificial intelligence]-based and open-source learning platform" and "aims revolutionize technical education in the United States by open-sourcing a personalized, adaptable, and scalable learning management tool, tailored for coding bootcamps and tech skills academies." *Dhanasar* notes that "[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." *Dhanasar*, 26 I&N Dec. at 889. Also, in *Dhanasar,* we gave significant weight to "probative expert letters from individuals holding senior positions in academia, government, and industry that describe the importance of hypersonic propulsion research as it relates to U.S. strategic interests" and "detailed expert letters describing U.S. Government interest" in Dr. Dhanasar's specific research. *Id.* at 892.

But here, the Petitioner has not provided similar evidence, such as expert testimonies attesting to his unique methodology and its future impact with concrete details, or letters from government entities or industry leaders describing how his specific endeavor impacts a matter that is a subject of national

[4] USCIS Policy Alert PA-2025-03, Second Preference Eligibility for National Interest Waiver Petitioner (Jan. 15, 2025) http://www.uscis.gov/sites, https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250115-Employment-BasedNationallnterestWaivers.pdf.

initiatives. Instead, the record largely consists of recommendation letters that praise the Petitioner's skills and success in his employment, articles that generally address the importance of STEM education and technology, and press releases on the government's overall priorities on STEM initiatives. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). Therefore, the Petitioner has not corroborated his claim that his endeavor provides unique methodology or advancement in the field of STEM and STEM education as contemplated in *Dhanasar.*

We determined in *Dhanasar* 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. *Dhanasar*, 26 I&N Dec. at 893. Similarly, we find that the Petitioner has not established his proposed endeavor in this case will sufficiently extend beyond his academy and its students to affect the regional or national economy more broadly or have a widespread impact to his field rising to a level of national importance, as required by the first prong of the *Dhanasar* precedent decision. To determine whether a petitioner has met their burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.; *see also Matter of E-M-*, 20 I&N Dec. 77, 79- 80 (Comm'r 1989). Here, the Petitioner has not met his burden.

While the Petitioner disagrees with our previous conclusion that the record did not show the national importance of the Petitioner's proposed endeavor, on motion to reconsider, he has not established that we misapplied law or USCIS policy, and that our prior decision was incorrect based on the evidence in the record at the decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

III. CONCLUSION

Based on our discussion above, the Petitioner has not met the requirements for a motion to reconsider, and we affirm our prior conclusion that the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver. Therefore, we need not address the Petitioner's remaining assertions on motion, such as his eligibility under the second or third prong outlined in *Dhanasar*. *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).

ORDER: The motion to reconsider is dismissed.

NOTICE: 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.