U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37869752

Date: MAY 07, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an industrial engineer and entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 met the requirements for EB-2 classification or that they merited a waiver of the job offer and labor certification requirements. 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 seeks to open an engineering consulting business in [redacted] Florida. The Petitioner states that he will leverage his years of experience as an engineer and general manager to create a business in the United States that provides engineering services to individuals and organizations. In the business plan provided to SCOPS, the Petitioner states:

> This company will be dedicated to the provision of project management services solutions in the areas of architecture, design, civil, electrical and mechanical engineering. By focusing on calculations, design, basic and detail engineering, economic and financial evaluation, and planning and control of projects, the services will ensure efficiency and quality across different stages of the project from conception, design, detail engineering, execution, technical, operation and financial closure.

To support his assertions, the Petitioner provided a business plan, letters of interest from various individuals, market research, bank statements, and evidence related to his prior experience in the field. The Petitioner states that he will operate as general manager of the company and manage all aspects of the company's products and offerings. The Petitioner states he intends to hire eight total employees and achieve $1.2 million in revenue by 2027.

SCOPS determined that the petitioner did not establish the national importance of his proposed endeavor because it did not demonstrate significant economic impacts or innovation in the field of endeavor that rose to the level of national importance. In addition, SCOPS determined that the Petitioner did not qualify for EB-2 classification, that he was not well positioned to advance the proposed endeavor or that, on balance, it was in the best interest of the United States to approve the waiver of the job offer and labor certification requirements for EB-2 classification.

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.*

[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).

SCOPS concluded that the Petitioner's proposed endeavor had substantial merit but lacked sufficient evidence to establish that it rose to the level of national importance. On appeal, the Petitioner states that SCOPS erred in their assessment of his national importance because his initiative is rooted in a sustainability framework and focuses on job creation. He further states that his proposed endeavor is to "design and implement solutions that will enhance efficiency and sustainability." The Petitioner does not provide an explanation of how he intends to enhance efficiency and sustainability or what that enhancement would mean compared to a typical or average engineering project. The Petitioner states that his business plan highlights the national importance of his endeavor in great detail.

The Petitioner's business plan anticipates that his company will reach a total of 8 employees in year five, with payroll expenses growing from $442,216 in year one to $500,771 in year five. He also projected generating $275,451 in net profit in year one, increasing to $581,884 in year five. Nonetheless, the plan does not explain how these forecasts were calculated, or adequately clarify how these projections will be realized, nor does the record contain evidence to support the business plan's financial projections. The business plan identifies several potential future projects based on the interest of individuals or businesses who provided letters of support. The Petitioner claims that his construction and engineering consulting business will have "profound implications for both regional and national economic dynamics." The Petitioner points to information regarding distressed communities from a non-governmental organization to support his claim. While the Petitioner asserts that these statistics support the national importance of his endeavor, he has not provided sufficient evidence to establish that his specific projects will be located in these communities or how they would impact the quality of life for the individuals who reside there. We do not dispute the importance of the construction and engineering industry to the U.S. economy, however, the market data presented encompasses the industry as a whole and not the Petitioner's proposed endeavor. The preponderance of the evidence standard requires that the evidence demonstrate that the petitioner's claim is probably true, where the determination of truth is made based on the factual circumstances of each individual case. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, truth is to be determined not by the quantity of evidence alone but by its quality. *See id.* Here, the lack of supporting details detracts from the probative value of the business plan.

Even if we assumed all the projections in the business plan were accurate, the record lacks evidence demonstrating that its impact would be nationally important. The Petitioner's business plan contends that his business will alleviate unemployment and support companies and individuals through engineering projects. The Petitioner cites to an evaluation of what building 100 homes would generate in terms of knock-on effects for the economy. However, the Petitioner has not proposed to build 100 homes, only to provide support services to unspecified individuals and organizations. While we do not dispute that construction projects will have some positive economic effects, the Petitioner's specific contributions to the unspecified individuals and organizations is not sufficiently examined to support his claim that his endeavor will result in substantial economic growth on the level of national importance. The determination of national importance hinges on an assessment of the broader societal or economic implications of the Petitioner's contributions, requiring he demonstrate broader benefits that extend beyond the confines of a local industry. *See Dhanasar*, 26 I&N Dec. at 893. Therefore, while ripple effects may signify positive developments within a narrow area, they alone may not suffice to establish the requisite level of national importance. *Id.* at 890, 892. Thus, it remains incumbent upon petitioners to present compelling evidence of their capacity to significantly benefit the industry or field as a whole, in accordance with the prevailing legal standards.

The record does not establish that creating 8 jobs and generating $581,884 in net profit after 5 years, as projected in the business plan, would have substantial positive economic effects on the level of national importance. The Petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The Petitioner has therefore not provided sufficient evidence to demonstrate the prospective impact of his proposed endeavor rises to the level of national importance.

Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning his eligibility for EB-2 classification and the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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 alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.