U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42065127

Date: MAY. 07, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur and production engineer that 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 qualified for EB-2 classification and that a discretionary 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*.

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation

that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[1] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. 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,[2] 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. ADVANCED DEGREE

SCOPS concluded that the Petitioner does not qualify for the EB-2 classification. Upon de novo review, we will withdraw SCOPS' determination on this issue and conclude that the Petitioner is a member of the professions holding an advanced degree.

The record shows that the Petitioner earned a bachelor's degree in production engineering from [redacted] and a bachelor's degree in mathematics from [redacted]. The credential evaluation submitted by the Petitioner indicated that the Petitioner has attained the equivalent of a bachelor of science degree in manufacturing engineering and a bachelor of science degree in mathematics.

SCOPS also determined that the Petitioner did not provide sufficient evidence showing that he had at least five years of progressive post-baccalaureate experience in his specialty. The Petitioner submitted letters from past employers describing the positions held, the dates of employment, and the duties performed in those roles. The letters also reflect the Petitioner's professional progression over time, including advancement to positions involving increased responsibility and more complex duties within the field. Collectively, the evidence demonstrates that the Petitioner possesses the educational background and progressive post-baccalaureate experience required to qualify as a member of the professional holding an advanced degree under section 203(b)(2) of the Act.

[1] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

[2] *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).

III. NATIONAL INTEREST WAIVER

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with SCOPS' conclusion that the proposed endeavor has substantial merit as it falls within the range of areas of substantial merit. *Id.* However, while the Petitioner has established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner stated his proposed endeavor in the United States is to run a business, [redacted], that will specialize in a "wide array of services, emphasizing advanced training, project management, production process optimization, statistical modeling, workplace safety, and risk analysis" and aims to be a trusted partner for small and medium-sized enterprises (SME). The Petitioner further explained that guided by the principles of agile management and leadership, [redacted] will specialize in providing innovative solutions to address unique challenges faced by SMEs by delivering a highly skilled team of experts to deliver top-tier consultancy in project management, safety, and process improvements. The Petitioner emphasized that his proposed endeavor would result in improved innovation leading to national technological advancements and competitiveness, enhanced productivity, service and support leading to economic growth, employment opportunities, and contribution to the overall well-being of U.S. society. In addition, the Petitioner stated that his proposed endeavor would have the significant potential to employ U.S. workers and have substantial economic benefit.

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. As it relates to the Petitioner's experience and ability claims, those relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. Moreover, the Petitioner must establish the national importance of his business rather than the importance of consultancy or entrepreneurism.[3] Further, "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.* The broader implications of the proposed endeavor can inform us of the proposed endeavor's national importance. That is not to say that the implications are viewed solely through a geographical lens. Broader implications can reach beyond a particular proposed endeavor's geographical locus and focus. And 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. For entrepreneurial endeavors, in determining an endeavor's national importance, we also consider additional factors such as revenue growth, revenue generation, and job creation in our analysis. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(4), ("Specific Evidentiary Considerations for Entrepreneurs").

[3] The Petitioner's contentions and submissions of industry articles and reports relates to the substantial merit of the proposed endeavor rather than the national importance.

Moreover, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. The Petitioner did not offer sufficient information and evidence to corroborate his assertions that the prospective impact of running a business that provides consultancy services to small and medium sized businesses rises to the level of national importance. In *Dhanasar*, we 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. Here, the record does not show through supporting documentation how his specific services stand to sufficiently extend beyond his prospective clients, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance, rather than just claiming a "ripple effect." The Petitioner generally states that the proposed endeavor is a "scalable, multi-client model" since it will "extend operations to other states and establish regional offices and teams to serves SMEs across multiple jurisdictions." However, the Petitioner did not provide further information regarding the models and scalability and how this will go beyond clients. The Petitioner also indicated his proposed focus on training and development; however, the specific nature of these services is unclear, and he did not sufficiently describe how his proposed training and development would have a national level impact on the consultancy and production engineering industry. The Petitioner provided very general notions of national impacts but did not provide specific information on how his business that services clients in a certain area can actually have a national impact. The Petitioner provided other generic asserted national impacts, indicating with little support that his proposed endeavor would address critical national issues such as skills gaps, employee retention, internal mobility, and training and development. For instance, the Petitioner states that he would provide a "modernization service model designed for adoption across multiple SME manufacturers and states" but again he does not specifically indicate how these approaches differ from those already employed by SMEs across the country and how it will affect the industry. Generalized conclusory statements that do not identify a specific impact to the field have little probative value. *See e.g., 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).

Further, the record does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id*. at 890. Upon review of the business plan, the Petitioner projects that his business will have a total of 21 direct employees by its fifth year, including the Petitioner's role as managing director and senior consultant. In the projected financial information, the Petitioner projects that his business will make total new worth of $1,399,273.00 by the fifth year. We acknowledge that the Petitioner's business plan projects the creation of jobs, revenue, and taxes paid by its fifth year of operation, however the plan does not sufficiently detail the basis for the revenue and staffing projections, nor does it adequately explain how the revenue and staffing projections will be realized. *Matter of Chaw*athe, 25 I&N Dec. at 376. As such, without more, he has not established that his endeavor will have substantial positive economic effects at a level commensurate with national importance. *Matter of Dhanasar* at 890.

The business plan also utilizes the Regional Input-Output Modeling System (RIMS II) with an emphasis in the engineering field that projects that in the next five years the Petitioner's company will sustain an additional 237 indirect jobs. However, the Petitioner does not elaborate on the additional jobs a RIMS II calculation anticipates his company will create, such as the type of jobs those would be, the breakdown of part-time versus full-time positions, and where they would be created. Without

more detailed, credible evidence of the types of jobs that would be created and where the jobs would be located, the record does not establish that employing the positions listed in the business plan and creating unspecified jobs at unspecified locations, would show the type of substantial positive economic effects, and whether the effects would be particularly in an economically depressed area, contemplated by the first *Dhanasar* prong. *See id.* at 889-90. Accordingly, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework.

In addition, the Petitioner provided little detail and documentation to sufficiently demonstrate that his services would likely have a claimed national impact on economically depressed areas in Florida. For instance, the Petitioner did not specify what specific economically depressed areas his proposed services would impact, or the jobs or revenues that would be generated in these areas. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, he has not provided sufficient explanation of the prospective national impact directly attributable to his proposed work, or established how his endeavor would impact an economically depressed area.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. Further analysis of the Petitioner's eligibility under the second and third *Dhanasar* prongs, therefore, would serve no meaningful purpose. Accordingly, we reserve those issues. *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

As the Petitioner has not met the *Dhanasar* analytical framework's requisite first prong, we conclude that he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

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.