U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42720921

Date: MAY 12, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a legal consultant, seeks classification as a member of the professions holding an advanced degree. *See* section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this employment based second preference (EB-2) classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i).

Service Center Operations (SCOPS) denied the petition, concluding although the Petitioner qualified as an advanced degree professional, she did not establish 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.

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's proposed endeavor is to "facilitate business transactions for American investors and companies seeking to enter or operate in the Albanian market." In her professional plan, she explained that "[b]y providing a set of expert legal advisory services, [she] will be able to help U.S. businesses, particularly small and medium businesses (SMEs), identify the existing gaps that are preventing them from achieving their goals and overcoming various challenges." In addition, she stated that her endeavor would encompass the following services: due diligence, legal compliance guidance, regulatory framework analysis, business formation analysis, business formation assistance, contract drafting and review, dispute resolution support, regulatory changes monitoring, tailored legal research, and support for international transactions.

A. EB-2 Classification

The Petitioner submitted her foreign master's degree, along with her academic transcripts and a credential evaluation indicating she possesses the equivalent to a U.S. master's degree in law. SCOPS determined the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether she qualifies for and merits a waiver of the job offer requirement in the national interest.

B. Substantial Merit and National Importance

In denying the petition, SCOPS determined the Petitioner provided insufficient descriptions and documentary evidence to identify her proposed endeavor with specificity and therefore had not established the proposed endeavor's substantial merit and national importance. SCOPS determined that in addition to providing a vague description of the proposed endeavor, the Petitioner had not shown, to the extent it could be understood, that her endeavor had significant potential to employ U.S. workers, offer substantial positive economic effects for the United States, or that the benefits to the national economy resulting from the proposed endeavor would reach a level contemplated by the *Dhanasar* framework.

On appeal, the Petitioner contends SCOPS' decision was "based on an incorrect application of law and policy and an erroneous assessment of the evidence in the record at the time of decision." The Petitioner further asserts that she defined her endeavor with: (i) a target client class (U.S. businesses

[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).

investing/operating in Albania); (ii) a defined service scope (cross-border compliance and transactional legal support); and (iii) an implementation pathway (including collaboration with U.S. counsel for U.S. law components and professional development steps in the United States.

The first *Dhanasar* 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.* Upon review, we conclude that the Petitioner has established that her proposed endeavor has substantial merit. However, the Petitioner has not sufficiently demonstrated the national importance of her endeavor under the first prong of the *Dhanasar* analytical framework.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we noted that, in assessing national importance, "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.

The Petitioner asserts on appeal that her endeavor has broader implications. She explains that her proposed endeavor "functions as compliance and risk-management infrastructure for U.S. companies operating cross-border" and references her professional plan. In the professional plan, the Petitioner asserts that her proposed endeavor "will not only aid individual companies but also contribute to the broader economic ties between the U.S. and Albania, supporting trade and investment that align with the economic interests of both nations" and that her work will have "a positive impact not only on the businesses she directly serves but also on the U.S. economy as a whole by supporting smoother, more secure international trade relations." The record includes a letter of intent from a potential client. The Petitioner, however, has not provided sufficient evidence demonstrating that her proposed endeavor would operate on such a scale as to rise to a level of national importance. While any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the asserted potential prospective impact of her proposed endeavor stands to offer broader implications in her industry or to generate substantial positive economic effects. In *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. *Id.* at 893. While we acknowledge the letter of intent, the evidence does not establish the proposed endeavor's national importance because it only highlights that the endeavor's impact is to the individual client or companies that hire the Petitioner to provide her services. Here, we conclude the Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her future clients to impact her field of law, the economy, or U.S. societal welfare more broadly at a level commensurate with national importance.

In addition, the Petitioner highlights an essay in the record showing the national importance of the proposed endeavor and the need for foreign legal consultants in his field. Moreover, in the professional plan, the Petitioner asserts her "work aligns with national priorities such as enhancing economic relations, supporting small and medium-sized enterprises (SMEs), and improving cross-border cooperation." However, when determining whether the proposed endeavor has 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." *Id.* at 889. Thus, while we acknowledge that the field of foreign legal services is important, this fact is insufficient to establish the national importance of her proposed endeavor.

The Petitioner emphasized her education and professional experience in the legal industry. Yet, the Petitioner's education, skills, and experience are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated, by a preponderance of the evidence, the national importance of her proposed endeavor.

Finally, we also reviewed the Petitioner's letters of recommendation. The authors praise the Petitioner's abilities and the personal attributes that make her an asset in the field of law. For instance, one letter states that the Petitioner's "strong moral character, her remarkable intellect and professionalism, as well as her sense of responsibility and duty made her an invaluable asset." Another letter states that the Petitioner "always handled legal procedures, complaints, and official correspondence with state authorities meticulously ensuring compliance with all relevant regulations." While the letters evidence the high regard the Petitioner's colleagues have for her and her work, they do not offer persuasive detail concerning the impact of her proposed endeavor or establish how such an impact would extend beyond her future clients. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

III. CONCLUSION

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address her eligibility under the remaining prongs, and we hereby reserve them. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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 alternate issues on appeal where an applicant is otherwise ineligible). The burden of proof is on the Petitioner to establish that she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that she has not established eligibility for a national interest waiver as a matter of discretion.

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 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.