U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38264704

Date: MAY 14, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a financial controller, 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 did not establish eligibility for EB-2 classification. 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*.

Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[1] 8 C.F.R. § 204.5(k)(2).

[1] Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) 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. ANALYSIS

In the initial petition, the Petitioner stated that his occupation was financial controller and that he planned to determine and formulate policies and provide overall direction as a chief executive officer (CEO). He asserted that he earned a master's degree in economics in 2006. The record includes a business plan, his resume, academic documents, professional identity documents, information about his salary, and letters of recommendation. In a response to a request for evidence (RFE), the Petitioner also submitted a cover letter, additional translation documents for the materials he previously submitted, information about a company he has incorporated in the United Kingdom, and additional recommendation letters.

A. Advanced Degree

After review of the initial petition and accompanying submissions, SCOPS noted that the translation certification documents of the Petitioner's foreign language degrees were deficient according to 8 C.F.R. §103.2(b)(3) because they lacked a statement regarding the translator's competence to translate from the document's language into English. In response to an RFE, the Petitioner submitted new translation certification documents with such a statement. In the decision denying the petition, SCOPS noted that the new translation certifications included the same date as the previous ones and that the translator's signature appeared to be copied and pasted. SCOPS therefore determined that the certifications remained deficient. As a result, SCOPS concluded Petitioner had not provided objective, independent evidence that he is a member of the professions holding an advanced degree, among other findings.

We will dismiss the appeal because the Petitioner has not met the requirements for the national interest waiver, specifically he has not demonstrated the national importance of his proposed endeavor.[3] Because this issue is, by itself, sufficient to determine the outcome of the appeal, we reserve and hereby decline to reach the separate question of whether the Petitioner has submitted sufficiently

[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).

[3] The Petitioner re-asserts on appeal that he is an advanced degree professional. He also submits new academic materials and translation certifications, arguing that and SCOPS referred to inconsistencies in the translations "without listing them." We similarly reserve these appeal arguments for the foregoing reasons.

credible evidence of his eligibility as a member of the professions holding an advanced degree, as well as the remaining eligibility requirements for the requested 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).

B. National Interest Waiver

SCOPS determined that the Petitioner had not established his eligibility for the national interest waiver, including the substantial merit or national importance of his proposed endeavor. The Petitioner's focus on the benefits of small business and the value of the accounting industry was not sufficient to show broader implications for the field. In the business plan, the Petitioner stated that he would create a financial and investment management consulting company, [redacted] which would operate in [redacted], Florida. The company would help start-ups, small, micro, and medium enterprises with financial and tax planning, achieving sales goals, investment and debt management, organizational management, and business growth. The business plan also listed several other specific personalized services [redacted] would offer after learning about its specific clients' processes and needs. [redacted] would hire 21 employees by the end of its fifth year and reach sales revenue of over $2 million. The company would use the Petitioner's expertise in financial management, business management, and investment services to assist American companies improve their operations, profits, business practices, and mitigate risks.

He asserted that he would contribute to U.S. economic growth by serving his clients, directly and indirectly creating jobs, increasing standards of living, and addressing a labor shortage in the accounting industry. The Petitioner also contended that small businesses do not usually hire consultants or have staff and departments handling the kinds of problems his company can assist with. He stated that he would help small organizations improve their performance and achieve their goals, including multilingual services that would serve Latino and Latino-owned or affiliated businesses. He claimed that contributions to small businesses are consistent with U.S. government priorities and that his endeavor would benefit the United States by transferring his knowledge to his company's employees and clients.

SCOPS noted the submission of the Petitioner's business plan, but determined that this was not persuasive. SCOPS also noted that the Petitioner had not provided elaborated on what he intended to do as a CEO in the field of endeavor. Furthermore, SCOPS concluded that the Petitioner had not shown that he was well-positioned to advance the proposed endeavor or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer.

On appeal, the Petitioner asserts his eligibility for the national interest waiver and submits copies of previously-submitted evidence. He argues that SCOPS did not acknowledge the benefits for the United States within his endeavor and did not understand his role in his business, which was documented in the RFE submission. The Petitioner claims that the SCOPS assessment was inadequate and superficial. Moreover, the Petitioner contends that SCOPS sent the decision to his prior address, despite him having sent a change of address form. Although he did eventually receive the decision, he claims that the delay in receiving his decision was unfair because it limited his time to appeal.

For the reasons discussed below, we agree with SCOPS that the Petitioner has not sufficiently demonstrated the substantial merit and national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework. 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 term "endeavor" is more specific than the general occupation; an individual should offer details not only as to what the occupation normally involves, but what types of work will be undertaken specifically within that occupation. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90.

Here, the Petitioner's emphasis on the subject matter of his endeavor is misplaced. The relevant consideration 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. The determination of national importance hinges on an assessment of the broader societal or economic implications of the Petitioner's specific contributions. *Id.* at 893. We do not seek to diminish the goals of his endeavor to assist small businesses with various financial and management practices. The Petitioner claims he would generate employment and that he can fill a shortage of professionals in his field in the United States. Nonetheless, he has not shown that the impact of his company would extend beyond its clients or employees or otherwise represent substantial positive economic effects in the United States. Indeed, the Petitioner's claim of the broader effects of his endeavor is essentially that of a ripple effect – his clients' improvements to their own practices would result in greater profits and therefore extend to the local and national economy. While ripple effects may signify positive developments within a narrow area, such as those contemplated by Dr. Dhanasar's teaching activities, they alone may not suffice to establish the requisite level of national importance. *Id.* The Petitioner has also not provided objective, independent evidence supporting his claims of his endeavor's economic impact. *See Matter of Chawathe*, 25 I&N Dec. at 376 (indicating that a petitioner must support his assertions with relevant, probative, and credible evidence). He submitted self-authored materials and recommendation letters which generally discussed his professional experience, or his personal character, but they did not provide corroborative or probative detail about his proposed endeavor. *Id.*, *see also, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) (indicating that "statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight").

As a general matter, an appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(1)(v). On appeal, the Petitioner disputes the SCOPS decision and argues on appeal that he has provided sufficient evidence to demonstrate the national importance of his proposed endeavor. However, he has not submitted new evidence on this requirement, nor has he identified specific documents in the record to support his claim that his proposed endeavor would impact the United States economy more broadly. To determine whether a petitioner has met their burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Matter of Chawathe,* 25 I&N Dec. at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Commensurate with the Petitioner's burden of proof is the responsibility for explaining the

significance of proffered evidence. *Repaka v. Beers*, 993 F. Supp. 2d 1214, 1219 (S.D. Cal. 2014); *see also Adler v. Duval Cnty. Sch. Bd.,* 112 F.3d 1475, 1481 n. 12 (11th Cir. 1997) (noting in a civil case that, absent plain error, it is not the place of an appellate body to grant appellants relief "based on facts they did not relate"). As the Petitioner largely disagrees with the SCOPS decision and asserts his eligibility by renewing claims made below, we are unable to conclude that he has met his burden by a preponderance of the evidence on appeal.

Turning to the Petitioner's claim that his decision was sent to an incorrect address, we acknowledge USCIS error in this regard. We recognize the sequence of events left the Petitioner with less than the 30 days (plus three days for mailing) afforded by the regulations to prepare and file an appeal after an adverse decision. *See* 8 C.F.R. § 103.3(a)(2)(i). On appeal, the Petitioner submits a copy of his Form AR-11 (AR-11), Alien's Change of Address Card. He also submits tracking information for correspondence sent to Harrisonburg, Virginia, the designated location indicated on the AR-11 to receive such submissions by mail. However, the Petitioner has not identified or requested a particular remedy beyond this appeal process. In the future, the Petitioner may wish to submit a change of address form online. This is strongly encouraged because a paper-based AR-11 does not provide an automated update to addresses in USCIS systems. USCIS, *AR-11, Alien's Change of Address Card* (May 2, 2025) https://www.uscis.gov/ar-11.

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude 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.