U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37735931

Date: MAY. 14, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an industrial production management consultant, 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 the record did not establish that a waiver of the required job offer, and thus of a 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.

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

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner is an industrial production management consultant who endeavors to establish a business, [redacted]. Through [redacted], the Petitioner intends to provide services such as "operational efficiency consulting, compliance audits, and sustainability solutions" to "U.S.-based refineries, oil and gas companies, small and mid-sized enterprises, and outsourced service providers." The Petitioner aims, though [redacted] to "support U.S. industries in enhancing productivity, reducing costs, and meeting stringent environmental and regulatory standards."

SCOPS determined that though the Petitioner demonstrated his endeavor has substantial merit, he has not demonstrated the national importance of the endeavor; that he is well-positioned to advance his proposed endeavor; or that, on balance, waiving the job offer requirement would be of benefit to the United States.

A. Substantial Merit and National Importance

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.* In *Dhanasar*, we noted that "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.

On appeal, the Petitioner asserts his endeavor has national importance as it "directly addresses critical challenges within the U.S. energy and industrial production sectors," and aligns with national goals, namely, "energy security, economic growth, and sustainability." The Petitioner contends that the energy and industrial sectors "face increasing pressures due to evolving regulations, global competition, and workforce skill shortages." [redacted] intends to address these issues by ensuring compliance with the evolving regulations, promoting "the adoption of sustainability initiatives," and enhancing "operation performance" and reducing "costs for energy companies." In support of his claims, the Petitioner submitted his business plan for [redacted], an expert opinion letter concurring that [redacted] goals align with national aims, and articles related to the energy sector and consulting. We do not dispute the importance of the energy and industrial sectors in the United States. However, the assessment of national importance is not focused on the importance of a field in general, but rather "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, the Petitioner has not demonstrated the wider impact of his particular endeavor beyond [redacted] and its clients, or that the endeavor would have broader implications to the field sufficient to demonstrate its national importance.

The Petitioner asserts his endeavor will boost economic efficiency by "helping refineries, oil and gas companies, and small to mid-sized enterprises (SMEs) improve their operational performance." The Petitioner contends that establishing [redacted] "will result in significant direct and indirect job creation, as well as workforce development initiatives." The Petitioner projects that by its fifth year, [redacted] will hire 21 employees and generate over 50 indirect positions. The Petitioner also asserts that [redacted] also intends to enhance workforce development by offering "specialized training programs aimed at enhancing operational excellence and safety compliance," and addressing "labor shortages." But the record does not contain sufficient supporting evidence for the submitted employment figures nor substantiate how these figures would have national level impact on the relevant energy and industrial industries. We concur with SCOPS that any basic economic activity resulting from the Petitioner's endeavor has the potential to positively impact a local economy, but the Petitioner has not met his burden of demonstrating the proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects to the level of national importance.

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.

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional 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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.