U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42653539

Date: MAY 14, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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.

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;

[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).

- 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

SCOPS concluded that the Petitioner qualified as a member of the professions holding an advanced degree, but that he had not satisfied second and third prongs set forth in the *Dhanasar* precedent decision. The sole issue to be determined therefore is whether the Petitioner has met the *Dhanasar* requirements to establish that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

At the time of filing, the Petitioner indicated he was serving as the General Manager of [redacted] his construction company in Colombia.[2] With respect to his proposed endeavor, the Petitioner initially wrote:

> My proposed endeavor is . . . to lead the design and development of sustainable and eco-friendly construction projects across the United States. My focus will be to minimize greenhouse gas emissions (CO2), while maximizing profits and delivering top quality projects for the end consumer. To achieve this, I will implement a methodical approach that involves sustainable guidelines, modern methodologies (i.e. REVIT-BIM), and the utilization of energy-efficient materials. The projects I manage will be distinguished by their superior quality, reduced waste generation, and minimized carbon footprint. They will exemplify environmental responsibility, offer greater affordability, adhere to strict timelines, and exhibit heightened control and efficiency throughout their execution.
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> . . . .
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> In furtherance of my endeavor and to address these issues, I will create a consulting firm taking advantage of my extensive experience in the realization of design, construction, consulting, and architectural projects. My focus will be on sustainable designs since they minimize to the maximum the environmental impact and economic resources.
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> . . . .
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> My role in the company will be that of a proactive leader with a range of essential functions and responsibilities to ensure successful project development. These functions include: Planning and Design and Project Management.

[2] As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for him to have a job offer from a specific U.S. employer. However, we will consider information about his position to illustrate the capacity in which he intends to work in order to determine whether the proposed endeavor meets the requirements of the *Dhanasar* framework.

In response to SCOPS' request for evidence (RFE), the Petitioner provided an updated "Proposed Endeavor Statement" indicating:

> My proposed endeavor is to design and develop innovative, resource-efficient construction projects across the United States in order to enhance energy performance, reduce operational costs, and deliver high-quality, cost-effective buildings that support long-term infrastructure resilience. This initiative will support the modernization of American cities and towns through forward-thinking construction solutions that prioritize durability, performance, and long-term value. I will do so by building on my more than 20 years of experience in alternative energy architecture projects, applying advanced methodologies such as REVIT-BIM, adhering to rigorous resource management guidelines, and incorporating energy-efficient materials to strengthen environmental stewardship and maximize operational efficiency in furtherance of my proposed endeavor for the benefit of the United States.

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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.* We agree with SCOPS' determination that the Petitioner's proposed endeavor has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. 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. For the reasons discussed below, we withdraw SCOPS' determination that the Petitioner's proposed work has national importance.

The Petitioner asserts that his "proposed endeavor centers on designing and developing innovative, resource-efficient construction projects nationwide to enhance energy performance, reduce operational costs, and deliver high-quality, cost-effective buildings that promote long-term resilience across the country's infrastructure systems." He further contends that his undertaking "has a direct and measurable impact on essential sectors such as health, housing, and education by promoting the construction of efficient, cost-effective, and climate-resilient facilities that improve public well-being and ensure equitable access to high-quality infrastructure." The Petitioner also claims that his proposed work "is of national importance as it addresses the most pressing infrastructure and environmental challenges facing the United States today" and it provides "the foundation for long-term economic growth, public health, and climate resilience."

In addition to company formation documents for [redacted] LLC in Florida (2022), the Petitioner's evidence includes his company's business plan. The business plan for [redacted] LLC provides industry

and market analyses, information about the company and its services, financial forecasts and projections, information about sustainable construction demand, a discussion of the Petitioner's education and work experience, and a description of company personnel. Regarding future staffing, the Petitioner's business plan anticipates that his company will employ 6 personnel in year one, 9 in year two, 17 in year three, 18 in year four, and 24 in year five, but he did not elaborate on these projections or provide evidence supporting the need for these additional employees. Furthermore, while his plan offers revenue projections of $975,825 in year one, $1,279,713 in year two, $2,270,130 in year three, $2,484,574 in year four, and $3,370,617 in year five, these projections are not supported by details showing their basis or an explanation of how they will be achieved.

The Petitioner also submitted articles on the importance of environmental sustainability in the construction industry, green building, promoting clean energy industries and jobs through Federal Government sustainability, tackling the climate crisis, adopting effective green building practices, investing in clean energy and climate action, and Building Information Modeling. Additionally, he provided information about the benefits of reducing energy consumption, decarbonizing the U.S. economy, and achieving efficiency through state and local preparedness as well as documentation relating to government initiatives involving artificial intelligence, affordable housing, U.S. infrastructure improvements, advanced digital construction management systems, weatherization assistance, home energy assistance, and opportunity zones. The Petitioner claims that these articles support the national importance of his proposed endeavor. The determination of national importance does not focus on the importance of environmental sustainability in construction, advancements in digitized architectural information systems, housing affordability, or improving U.S. infrastructure in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles mention the Petitioner or his company, or otherwise speak to the potential prospective impact of his specific proposed construction projects.

Furthermore, the Petitioner presented letters of support from C-A-F-Q-, E-R-B-M-, J-E-M-P-, R-A-S-M-, D-N-G-, J-Y-S-, A-H-V-, J-C-S-V-, and R-E-E- discussing his sustainable architecture capabilities and construction experience. He also provided letters from G-G-, H-M-, L-A-B-, L-S-, and E-B- reflecting interest in engaging his services. The Petitioner's skills, knowledge, and prior work in his field, as well as interest from potential customers, relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong

The Petitioner's letters of support do not demonstrate that his proposed endeavor would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the potential prospective impact of his proposed endeavor stands to offer broader implications in his field or to generate substantial positive economic effects in the region where his company will operate or in other parts of the United States.

In addition, the Petitioner presented "Expert Opinion Letters" from Dr. J-J-, E-C-C-, and Dr. G-J-D- support of his national interest waiver. For example, Dr. J-J- speculates that the Petitioner's proposed endeavor "will contribute meaningfully to the nation's goals for sustainable development and extreme

weather mitigation" as well as reduce our country's "carbon footprint," but does not explain how the Petitioner's work stands to affect his field or industry beyond his immediate clients and their construction projects. Likewise, while E-C-C- contends that the Petitioner's proposed endeavor stands to benefit "the United States by addressing national infrastructure challenges, supporting energy independence, and advancing sustainable development goals," she does not explain how the Petitioner's day-to-day management of his company's operations and its consulting projects as contemplated by his proposed endeavor rises to a level of national importance. In addition, Dr. G-J-D- asserts that the Petitioner's company stands to create "new jobs in the field of sustainable construction and project management" and therefore help "support the local economy." Even with the projected job growth in the Petitioner's business plan, the record does not indicate that [redacted] LLC stands to employ a significant number of U.S. workers or to otherwise provide "substantial positive economic effects" as contemplated in *Dhanasar*. *Id*. at 890. The letters from Dr. J-J-, E-C-C-, and Dr. G-J-D- do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work offers broader implications in his field or substantial positive economic effects for our nation that rise to the level of national importance.

As for the job creation and business activity that the Petitioner asserts his proposed endeavor will offer, the record does not contain sufficient supporting evidence. The preponderance of the evidence standard requires 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, lack of supporting details and evidence detracts from the credibility and probative value of the Petitioner's claim regarding job creation and other substantial positive economic effects.

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. While the Petitioner's statements reflect his intention to design and develop construction projects in the United States, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. 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. Here, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his company and its construction projects to impact the field of sustainable architecture, the construction industry, government initiatives, societal welfare, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not shown that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Specifically, he has not demonstrated that his company's future staffing levels and business activity stand to provide substantial economic benefits in Florida or in other parts of the United States. While the Petitioner claims that his company has growth potential, he has not presented evidence indicating that the benefits to the regional or national economy resulting from his undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890. In addition, although the Petitioner asserts that his endeavor stands to create jobs for U.S. workers, he has

not offered sufficient evidence that his endeavor offers Florida or the United States a substantial economic benefit through employment levels or business activity.

The Petitioner has not established that his 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. Accordingly, we withdraw SCOPS' determination that the Petitioner's proposed endeavor has national importance.

B. Whether on Balance a Waiver is Beneficial to the United States

The third prong requires a petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *Id*. at 890-91. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. *Id*. In each case, the factor(s) considered must, taken together, establish that on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *Id*. at 891.

In denying the petition, SCOPS concluded the Petitioner had not established he offers contributions of such value that, on balance, it would be beneficial to waive the requirements of a job offer and thus of a labor certification." SCOPS' decision indicated the Petitioner had not shown "that the nation would still benefit from the [his] services even if qualified U.S. workers are available." SCOPS also determined that the record did not demonstrate "an urgent national interest" in the Petitioner's contributions.

On appeal, the Petitioner argues that he "will be self-employed in the businesses he creates" and that "it would be impractical to secure another job offer." We acknowledge the impracticality of obtaining a labor certification for a self-employed consulting company owner.

In addition, the Petitioner takes issue with SCOPS' statement that he had not demonstrated "an urgent national interest" in his contributions. He argues that the statement misapplies *Dhanasar's* third prong, which he asserts "does not require an urgent or time-sensitive justification." *Dhanasar's* third prong discussion, however, specifically indicates that we may evaluate "whether the national interest in the foreign national's contributions is sufficiently urgent to warrant forgoing the labor certification process." *Id*. at 890-91.

The Petitioner further contends that the "record underscores the national imperative for innovative solutions that reduce energy consumption in buildings, improve infrastructure resilience, and promote environmentally responsible construction practices, a goal directly addressed by the Petitioner's contributions." He asserts that he has "a demonstrated history of success in implementing innovative methodologies within the sustainable architecture and resource-efficient construction field." The Petitioner also argues that his "contributions go beyond routine work in his field, offering value that

is distinct and nationally beneficial through his expertise in bioclimatic design, renewable energy integration, and the development of cost-efficient and resilient building solutions that support modern infrastructure needs in the United States."

The Petitioner, however, has not demonstrated that his contributions supersede the benefits of protecting the domestic labor supply inherent in the labor certification process. While the record includes information about the merits of environmental sustainability in the construction industry and evidence of the Petitioner's capability in construction planning and design and project management, this documentation is insufficient to show that the national interest is better served by a waiver of the job offer and thus the labor certification requirement. The labor certification process is intended to ensure that the admission of foreign workers will not adversely affect the job opportunities, wages, and working conditions of U.S. workers. We acknowledge the Petitioner's bachelor's degree in architecture and professional credentials, his construction experience and business plan, and the letters offered in support of the petition. The evidence in the aggregate, however, is not sufficient to demonstrate that a national interest waiver outweighs the benefits inherent to the labor certification process.

The Petitioner has not shown that he offers contributions of such value that, on balance, it would be beneficial to the United States to waive the job offer and labor certification requirements even assuming that other qualified U.S. workers are available.

C. The Remaining *Dhanasar* Prong

Because the documentation in the record does not establish the national importance of his proposed endeavor and that on balance, waiving the job offer requirement would benefit the United States as required by the first and third prongs of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. As these issues are dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of his eligibility under the second prong of the *Dhanasar* framework. *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 requisite first and third prongs 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. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

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.