U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37290704

Date: MAY 16, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur in the field of sales and marketing, 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 although the Petitioner qualified for classification as an advanced degree professional and his endeavor has substantial merit, the Petitioner had not established that his endeavor is of national importance, or that, on balance, 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:

[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 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

SCOPS concluded that the record established the substantial merit of the Petitioner's endeavor, but did not establish its national importance. SCOPS determined the Petitioner did not show that his work would result in broader implications beyond his prospective customers, nor did he demonstrate that his endeavor would result in a significant potential to employ U.S. workers or otherwise result in substantial economic benefits contemplated in *Dhanasar*.

The Petitioner indicated that his proposed endeavor is to operate a company that will "enhance the sale and marketing strategies of small and medium-sized businesses" that will stimulate economic growth. The Petitioner's business plan stated that the company will bring "high-quality services to maximize the business and sales performance of its clients, thus contributing to the national U.S. economic development." On appeal, the Petitioner reiterates the same arguments and contends that his company will provide small and mid-sized businesses with "tailored sales and marketing consulting services designed to improve business performance, create jobs, and stimulate economic growth, particularly in economically underdeveloped areas."

On appeal, the Petitioner further alleges that the Director "did not apply the proper standard of proof in this case, instead imposing a stricter standard . . . to the detriment of the Appellant." Except where a different standard is specified by law, the "preponderance of the evidence" is the standard of proof governing immigration benefit requests. *See Matter of Chawathe*, 25 I&N Dec. at 375 (AAO 2010). Accordingly, "preponderance of the evidence" is the standard of proof governing national interest waiver petitions. *See generally* 1 USCIS Policy Manual, E.4(B), https://www.uscis.gov/policy-manual. While the Petitioner asserts that he has provided evidence sufficient to demonstrate his eligibility for a national interest waiver, he does not further explain or identify a specific instance in which the Director applied a standard of proof other than the preponderance of evidence in denying the petition.

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.*

The Petitioner's claims on appeal primarily rely on the importance of providing sales and marketing consulting services to small and mid-sized businesses, rather than sufficiently detailing the prospective impact of his specific work. But in *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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.

Although the Petitioner's statements in the record reflect his intention to provide valuable services to his clients, the record does not support his assertions that his work will result in broader implications to the field, beyond the potential benefits to his immediate clients. For example, he asserts that his proposed endeavor will make "significant contributions to the enhancement of business growth and market competitiveness in the U.S., specifically in the crucial areas of sales and marketing optimization," and his work would result in broad implications in the field; however, he does not identify what, if any, cutting-edge technologies and sales and marketing practices he will introduce. Moreover, he does not explain how any methodologies and practices he implements, even if adopted by his customers, would be disseminated to the field at a level commensurate with national importance or would otherwise lead to broader implications to the field. Generalized conclusory statements that do not identify a specific impact in 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).

We also agree that the Petitioner has not demonstrated that his proposed endeavor has a significant potential to employ U.S. workers or otherwise offer substantial positive economic effects contemplated in *Dhanasar*. *See Dhanasar* at 890. We reviewed the Petitioner's business plan. The business plan makes various projections that the company will purportedly achieve in five years, such as paying $412,000 in taxes to the U.S. government, increasing the company revenue from $291,175 in year one to $1,513,500 by year five, and providing a total payroll of $1.9 million by hiring 23 employees. However, the plan does not provide sufficient detail of the basis for these projections or adequately explain how these sales and staffing targets will be realized. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The business plan alone does not sufficiently show that the Petitioner's company will have an impact on the sales and marketing industry or the U.S. economy at a level commensurate with national importance.

In addition, the record does not indicate that the location of the business and its proposed operations is an economically depressed area. The Petitioner claims that he will establish his proposed endeavor within a Small Business Administration (SBA) designated HUBZone in Orlando and expand to [redacted] and [redacted] Florida. The Petitioner, however, 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 the United States. We are also not persuaded by the Petitioner's intention to operate his proposed endeavor within a HUBZone since the Petitioner has not adequately established what parameters the SBA considers when it establishes HUBZones. We therefore cannot evaluate whether these SBA-identified underutilized business zones are akin to the types of economically depressed areas within which creating employment could be a potential positive economic effect.[2]

[2] The HUBZone program's goal is to promote business growth in underutilized business zones by awarding 3% of federal

Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to his future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Accordingly, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework.

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. We acknowledge the Petitioner's arguments on appeal as to the third prong of *Dhanasar* but, having found that the evidence does not establish the Petitioner's eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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 the applicant is otherwise ineligible).

ORDER: The appeal is dismissed.

contract dollars to HUBZone-certified companies. That certification makes a business eligible to compete for certain federal contracts in the "set-aside" category. There are several required qualifications to participate in the program, but the most dispositive one for our analysis today is that the business seeking to participate in the HUBZone program must be at least 51% owned by U.S. citizens, a community development corporation, an agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe. While it is unknown and the record is silent as to whether any federal programs exist in the "set-aside" category for endeavors like the one the Petitioner proposes, it appears as though the Petitioner's proposed endeavor would be wholly owned and controlled by the Petitioner and that the Petitioner is not a U.S. citizen, a community development corporation, an agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe. We therefore question whether the Petitioner would even be eligible to participate in the HUBZone program.