U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37912372

Date: MAY 19, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an IT Project Manager, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 Petitioner had established eligibility for the underlying immigrant classification. However, the Petitioner did not establish eligibility for 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. 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

Regarding the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. In Part 6 (Basic Information About the Proposed Employment) of Form I-140, Immigrant Petition for Alien Workers, the Petitioner listed the job title as "IT PROJECT MANAGER" and provided the nontechnical job description as "Coordinating project team members and developing schedules and individual responsibilities." In addition, the Petitioner submitted a statement outlining her proposed endeavor as follows:

> The United States faces significant challenges in addressing financial inclusion and healthcare disparities for underserved communities, which have far-reaching consequences for social equity economic mobility, and public health. To tackle these issues, I propose an endeavor that focuses on leveraging digital transformation (implementing technology to enhance operations, services, and end-user value) to improve access to financial services and healthcare resources for the underserved populations across the country. By harnessing my expertise in digital transformation, financial services, and healthcare, along with my extensive experience in leading large-scale projects and programs, I aim to develop and implement innovative solutions that can substantially bridge the digital divide, empower underserved communities, and contribute to the United States' efforts to promote inclusive economic growth and health equity.

In response to the Director's request for evidence, the Petitioner provided an updated statement reflecting that she will leave her current job and assume the role of CEO at her company [redacted] LLC. Under her leadership and an assembled team of competent experts, [redacted] LLC plans to:

1. Develop a scalable Health IT digital platform, [redacted] that connects underserved populations with tailored financial services and healthcare resources, potentially impacting millions of Americans across the country.
2. Implement blockchain-based solutions to improve data security and interoperability in healthcare and financial systems, setting new industry standards and positioning the U.S. as a leader in these technologies.
3. Establish research and development hub that will employ U.S. workers in high-skill technology roles, contributing to job creation and economic growth in the technology sector.
4. Partner with government agencies and non-profit organizations to create targeted interventions for economically depressed areas, directly contributing to local economic revitalization and improved health outcomes.

On appeal, the Petitioner highlights her leadership and expertise by outlining her plan to hire and lead a team of experienced professionals in finance, healthcare, community organization and technology; and emphasizes her past success in running a business and leading high-value projects as evidence of her "capability to implement solutions with broad impact." The Petitioner asserts the national importance of her proposed endeavor and submits new evidence including additional information on her current employer, and evidence of its impact on the global financial sector. Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because "petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial").

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.* The Director found that the Petitioner established the substantial merit of her proposed endeavor.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* Additionally, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. Although the Petitioner emphasizes the importance of her IT project manager position, and asserts that the healthcare industry is projected to grow from $583 billion to $819 billion in 2024, citing [redacted] as her source, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of providing her particular IT project managerial services to the industry.[2] 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.

In addition, the Petitioner did not demonstrate how her financial and healthcare focused IT project managerial services largely influences the field and rises to the level of national importance. In *Dhanasar*, we determined 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. The record does not show through supporting documentation how her endeavor sufficiently extends beyond her prospective employers or clients, to impact the field or the U.S. economy more broadly at a level commensurate with national importance. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. *Dhanasar*, 26 I&N Dec. at 889.

[2] The Petitioner's arguments and evidence relate to the substantial merit aspect of the proposed endeavor rather than the national importance part.

While the Petitioner provided a business plan for the proposed company, [redacted] LLC, the Petitioner did not present sufficient supporting evidence, corroborating the assertions and figures. Moreover, the Petitioner did not demonstrate how her business plan's claimed revenue and employment projections, even if credible or plausible, have significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Although the Petitioner projected that through her associated [redacted] platform she could create 500+ direct high-skilled technology jobs across research, development, and operations, while generating an estimated 2000+ indirect jobs through established partner networks and service providers, the Petitioner did not establish the significance of this data to show that the benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. The Petitioner does not provide sufficient explanation for the basis of these projections. Further, even if sufficient basis were provided for the proposed endeavor's job creation projections, these figures do not establish that the Petitioner's company would operate on a scale rising to the level of national importance. Moreover, the Petitioner did not establish that such employment figures would utilize a significant population of workers in a specific area or would substantially impact job creation and economic growth, either regionally or nationally. For all these reasons, the record does not demonstrate that, beyond the limited benefits provided to its prospective clients and employees, the Petitioner's proposed endeavor has broader implications, rising to national importance or that it would offer substantial positive economic effects.

The Petitioner stresses her expertise, specialized education, leadership skills and proficiency. However, the Petitioner's knowledge, skills, and abilities 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 she proposes to undertake has national importance under *Dhanasar's* first prong.

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.[3]

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above-mentioned reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

[3] *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 alternate issues on appeal where applicants do not otherwise meet their burden of proof).