U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38159733

Date: MAY 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a teacher, 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).

SCOPS denied the petition, concluding that 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 seeks to establish and operate a business in Florida that will provide English language instructions to non-native English speakers, with a particular focus on serving "legal immigrant" communities. SCOPS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. Accordingly, the remaining issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

SCOPS issued a request for evidence requesting, among other things, further evidence of how the proposed endeavor would be of national importance. In response, the Petitioner provided additional documents including an updated resume, a personal statement, and a business plan as well as employment verification letters, proof of income, and other supporting materials. In denying the petition, SCOPS concluded that although Petitioner's proposed endeavor has substantial merit, the Petitioner did not establish the national importance of her endeavor. SCOPS also determined that the Petitioner did not establish that she is well-positioned to advance her endeavor, and that, on balance, it would benefit the United States to waive the job offer requirement.

On appeal, the Petitioner contends that SCOPS' decision "contains numerous erroneous conclusions of both law and fact." The Petitioner further argues that the decision reflects unduly "narrow interpretation of national importance" and improperly dismisses supporting evidence, including recommendation letters. The Petitioner asserts that her evidence "overwhelmingly demonstrates" her proposed endeavor's national importance. The record includes the abovementioned documents as well as academic records, recommendation letters, and an expert opinion letter discussing the significance of the Petitioner's entrepreneur and teaching endeavor.

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 asserts that her company will offer "language classes to enhance immigrant's skills and promote assimilation, aligning with growing demand from immigrants and government programs." She further states the English language classes will be offered to both adults and children and will be designed to accommodate diverse learning styles and varying time commitments. The Petitioner also proposes to serve as both a teacher and chief executive officer and plans to collaborate with educational institutions, community organizations, and businesses. Her goal is to impact the language instruction industry and support the advancement of the Empower English initiative.

The Petitioner maintains that her endeavor has nationwide implications due to its aim to address "a system gap in immigrant workforce preparedness, corporate productivity[,] and community integration." To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of the Petitioner's work. The relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on "the specific endeavor that the [petitioner] proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further 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. Here, while the Petitioner's endeavor may have merit, the evidence does not establish that operating and teaching at an English language instruction business will have broader implications or influence in the field that will rise to the level of national importance.

The author of the expert opinion letter proclaims that the Petitioner's proposed endeavor holds national importance "due to its potential to address critical societal and economic challenges in the United States, by helping immigrants gain language proficiency, the endeavor supports successful integration of immigrants and contribute to the nation's economic growth." The author also declares that the Petitioner's endeavor to teach English and operate an English language instruction business has the potential to create jobs, produce substantial positive economic effects, and enhance societal welfare or cultural enrichment. In particular, the author notes that the Petitioner's plans to expand her company into a language school, curriculum development, online service offerings, and increased advertising investments could result in a substantial positive economic effect for the country. Here, although the Petitioner's endeavor may address an important social issue, the record does not establish that the endeavor will have a measurable impact beyond the immediate community it serves to reach the level of national or even global impact.

Moreover, the Petitioner has not presented sufficient evidence to distinguish her English language instruction business from other similar programs already in existence. While the recommendation and expert opinion letters support the Petitioner's endeavor, they primarily offer general endorsements without sufficiently demonstrating how her specific proposed endeavor will impact the field on a national scale or significantly influence the field.

The Petitioner claims that her company will contribute to a more diverse and skilled workforce and will strengthen the U.S. economy. She asserts that her company will offer 15 full-time jobs and garner net profit of $123,458 by year five. However, the Petitioner does not provide sufficient detail of the basis of these projections or adequately explain how these staffing targets and revenue forecasts will be realized. 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, the record does not include adequate corroborating evidence, to show that the Petitioner's specific proposed endeavor offers broader implications in her field, enhancements to U.S. societal welfare, or substantial positive economic effects for the country that rise to the level of national importance.

The Petitioner states that her endeavor "aligns directly with federal priorities, economic imperatives, and social integration goals." She further contends that her endeavor supports federal and national initiatives. Merely working in an important field and the endeavor's alignment with government initiatives alone is insufficient for national importance. Here, the record does not establish how the Petitioner's specific proposed endeavor will have broader implications in her field, positively impact the U.S. economy, or generate direct and indirect jobs on a broad scale rising to the level of national importance. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. Without sufficient evidence regarding the projected U.S. economic impact or job creation directly attributable to her future work, the record does not show that the 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*. *See Dhanasar*, 26 I&N Dec. at 890.

For the aforementioned reasons, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework. 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. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding her eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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 that she has not established she 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.

ORDER: The appeal is dismissed.