U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37762952

Date: MAY 28, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a consultant and entrepreneur, 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 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 a consultant who intends to establish and act as chief executive officer for a consulting company, [redacted] to "support[] the productivity and process [of] improvement of small and medium-sized enterprises (SMEs) in the United States." The Petitioner intends to provide services including "consulting, advising, guidance, and the development of tailored strategies for these businesses."

SCOPS determined that though the Petitioner demonstrated she is well-positioned to advance her proposed endeavor and the endeavor has substantial merit, she has not demonstrated the national importance of the 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 generally disagrees with SCOPS' denial, primarily relying on arguments previously raised before SCOPS. The Petitioner asserts her endeavor, offering consultation as a business strategy expert, will support the growth of SMEs and startups in the United States, critical sectors in the U.S. economy. The Petitioner further asserts SCOPS failed to properly consider that her endeavor extends beyond its own clients, with a "broader collective impact of services on economic development, job creation, and business competitiveness."

We adopt and affirm SCOPS' decision. See Matter of Burbano, 20 I&N Dec. 872, 874 (BIA 1994); see also Giday v. INS, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adoption and affirming the decision below "is not only common practice, but universally accepted"). We concur with SCOPS that the Petitioner did not establish the national importance of her endeavor. SCOPS agreed with the Petitioner that business administration is a field of national importance but noted "the scale of the entire operation" of an industry in which a petitioner intends to operate is not examined in determining whether an endeavor has national importance. Rather, SCOPS examined "the prospective impact of the [P]etitioner's particular endeavor" in determining its implications to "the industry or field more broadly" had not been established. SCOPS also determined the Petitioner had not

demonstrated her proposed endeavor would "employ a significant population of workers in an area, or offer a region or the country a substantial economic benefit."

On appeal, the Petitioner provides relevant metrics from her consulting work in asserting her endeavor "focuses on delivering immediate, implementable solutions to improve the productivity of U.S. SMEs, which face significant challenges." Specifically, the Petitioner asserts her work for clients resulted in the reduction of operational costs and repair costs, saved operational time, improved client relationships, and strengthened onboarding processes. The Petitioner provided supporting figures for these assertions, identified the steps she utilizes in client work, and contends her approach ensures SMEs "maximize their efficiency, enhance their competitiveness, and sustain long-term growth through innovative and strategic process improvements." On appeal, the Petitioner submitted articles highlighting the value of SMEs in the economy and letters of recommendation for the Petitioner extolling her expertise in the field. While we acknowledge the Petitioner's abilities and successes in working with her SME clients, in addition to the vital role of SMEs in the United States, we concur with SCOPS that the Petitioner has not established her endeavor stands to sufficiently extend beyond her clients to impact the larger field of SMEs more broadly, at a level commensurate with national importance.

The Petitioner asserts her endeavor will create new jobs within her company, which will subsequently result in "indirect job generation in client businesses." The Petitioner also claims her endeavor will generate economic "multiplier effects by fostering business expansion, job creation, and innovation." The Petitioner's business plan indicates the company's intention to employ 15 individuals by its fifth year. However, the business plan does not provide sufficient explanation for the basis of these employment projections. And while any basic economic activity has the potential to positively impact economy, the Petitioner has not shown how the economic activity directly relating to her company and its operations would rise to the level of national importance contemplated by *Dhanasar*. *See Dhanasar*, 26 I&N Dec. at 890. The Petitioner has also not demonstrated the significance of such data to show substantial economic benefit to an economically depressed area or of the national economy more broadly. Accordingly, we concur with SCOPS that the Petitioner has not sufficiently shown her proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects tot 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.