U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37736042

Date: MAY. 29, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a program officer – preferred communities in the field of international development, 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 he did not establish a waiver of the required job offer, and thus 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

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus 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 his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to his proposed endeavor, the Petitioner initially indicated that he plans to "continue to impact and advance the field through utilizing my knowledge and expertise as an international development practitioner for the benefit of the U.S. social and economic sectors," and he will continue "working with resettlement agencies, including the U.S. – Committee for Refugees and Immigrants, and concentrating on the social development of vulnerable populations, including refugees." The Petitioner stated that he conducts technical training and participates in conferences, panels, and online events. He further explained that for the past eight years he worked in the field of international development and gained "significant experience in various domains of international development such as resettlement, gender development and gender-based violence response and prevention, child protection, humanitarian response and economic development."

The Director requested further evidence to support the Petitioner's claims relating to *Dhanasar's* three prongs. In response, the Petitioner provided an updated letter and stated that he will continue working on international development in his proposed endeavor focusing on the "resettlement, namely supporting relocation of immigrants and refugees in the United States to help them achieve self-sufficiency through seeking employment and alleviating burden on the national social benefits system," and "international business relations between the United States and Ukraine, as well as other Eastern European countries, thorough promoting bilateral mutually beneficial trade and investment ties and, the result, increasing employment opportunities in the U.S." He also stated that he will continue to work as a business development specialist with the U.S.-Ukraine Business Counsel and continue working on initiatives he worked on previously when employed by the U.S. Committee for Refugees and Immigrants.

Even though the Director determined that the Petitioner's proposed endeavor has substantial merit, the Director concluded the Petitioner did not establish his endeavor is of national importance. On appeal, the Petitioner asserts the Director misapplied the legal standard of review and disregarded probative evidence demonstrating eligibility under the *Dhanasar* framework. On appeal, the Petitioner contends SCOPS erred in requesting a formal business plan of the proposed endeavor. We acknowledge a business plan is not required and the Petitioner provided information regarding his proposed endeavor with the initial petition and in response to the request for evidence. The standard of proof in this proceeding is preponderance of the evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine

whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.*; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Upon de novo review of the record, we agree with the Director's evaluation of the evidence, and conclude the Petitioner has not established, by a preponderance of the evidence, that the proposed endeavor has national importance as contemplated under the *Dhanasar* framework.

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 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." *Id.* 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 recognize the value of the claimed efforts in international development including refugee resettlement and supporting international business relations; however, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. On appeal, the Petitioner asserts that his past contributions demonstrate his impact on the field and is a blueprint of how he will continue to contribute to the field; however, the Petitioner does not sufficiently evidence the national importance of the proposed endeavor. The Petitioner must show how the functions and tasks *carried out by him* coalesce into a nationally important endeavor.

The Petitioner submitted several documents in support of the petition. The record includes a personal statement, resume, academic records, opinion letters, recommendation letters, conference engagements, and industry reports and articles. While we do not discuss every piece of evidence individually, we have reviewed the record and have considered the Petitioner's eligibility for the national interest waiver. The authors of the recommendation letters highlight the Petitioner's professional experience and expertise with specific areas of international development, and the Petitioner's contributions through his prior employment. However, the authors do not offer sufficient detail regarding the Petitioner's specific proposed endeavor and its national importance. For example, the authors do not address whether the Petitioner's specific endeavor will bring substantial economic benefit to the country that would rise to the level of national importance, impact the relevant field on a national scale, or enhance societal welfare on a broader scale indicative of national importance. While we acknowledge the Petitioner's extensive experience and accomplishments in refugee resettlement and international development, the Petitioner, nonetheless, has not offered sufficient information and evidence to demonstrate that the prospective impact of his specific proposed endeavor will rise to the level of national importance.

Moreover, although an individual's experience, qualifications, contributions, and achievements are material, these experiences are misplaced in the context of the first *Dhanasar* prong. The Petitioner's professional experience is generally material to *Dhanasar*'s second prong—whether an individual is well positioned to advance a proposed endeavor—but they are generally immaterial to the first

Dhanasar prong—whether a specific, prospective, proposed endeavor has both substantial merit and national importance. *See id.* at 888-91. The first prong focuses on the proposed endeavor itself, not the petitioner. *Id.* The Petitioner must establish that his specific endeavor has national importance under *Dhanasar*'s first prong. The Petitioner however has not shown that the specific endeavor he proposes to undertake stands to sufficiently extend beyond his clients, partners, employers, or companies he elects to work with to offer substantial economic effects for the United States or enhance societal welfare on a broader scale indicative of national importance.

Finally, the Petitioner indicated that his proposed endeavor would help the U.S. economy by advancing economic opportunities for the United States. The Petitioner did not show his proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. Without such evidence, the record does not show any benefits to the U.S. regional or national economic resulting from the Petitioner's services or position would reach the level of "substantial positive economic effects" as contemplated by *Dhanasar*. *Id.* at 890.

As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under 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 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.