U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40002125

Date: NOV. 04, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 that he had not established that 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:

- The proposed endeavor has both substantial merit and national importance;

[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 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 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 indicated that intends "to serve the United States within the Human Resources Consulting industry by working as a Human Resources Manager and as an entrepreneur, through [redacted] LLC, providing comprehensive business development consulting and human resources services." He explained that his company's "services include recruitment and staff selection, internet recruitment, management recruitment (headhunting), and tax and labor advice." In response to SCOPS' request for evidence, the Petitioner reiterated that he has "launched a human capital consulting initiative aimed at supporting U.S. industries facing talent shortages and workforce management challenges." He asserted that his undertaking is aimed at addressing "critical workforce development needs," providing "tailored human resources solutions across industries," and supporting "businesses navigating the complexities of international operations."

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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.* SCOPS determined the Petitioner's proposed endeavor has substantial merit. We agree.

SCOPS concluded, however, that the Petitioner did not establish the national importance of his proposed endeavor. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. SCOPS determined the Petitioner did not establish the potential prospective impact of his company and its services.

In addition to company formation documents, the Petitioner's evidence includes his November 2022 business plan for [redacted] This business plan provides industry and market analyses, information about the company and its services, financial forecasts and projections, marketing strategies, a discussion of the Petitioner's education and work experience, and a description of company personnel. Regarding future staffing, the Petitioner's business plan anticipates that his

company will employ 5 personnel in year one, 11 in year two, 17 in year three, 23 in year four, and 29 in year five, but he did not elaborate on these projections or provide evidence supporting the need for these additional employees. Furthermore, while his plan offers revenue projections of $528,937.50 in year one, $924,000.00 in year two, $1,316,700.00 in year three, $1,731,450.00 in year four, and $2,149,875.00 in year five, these projections are not supported by details showing their basis or an explanation of how they will be achieved.

The Petitioner also submitted articles on the importance of human resources managers, promoting diversity and pay equity, human resources roles, international human resources management, and immigrants and their contribution to the U.S. economy. The Petitioner claims that these articles support the national importance of his proposed endeavor. The determination of national importance does not focus on the importance of his occupation in general or immigrant entrepreneurship, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, none of the articles mention the Petitioner or his company, or otherwise speak to the potential prospective impact of his specific proposed endeavor.

In addition, the Petitioner presented letters of support from A-B-J-, D-C-, D-M-S-P-, F-S-D-, K-B-B-M-, and G-D-E- discussing his human resources capabilities and business experience. He also provided letters from A-P-B- and P-W- reflecting interest in engaging his human resources consulting services. The Petitioner's skills, knowledge, and prior work in his field, as well as interest from potential customers, 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 he proposes to undertake has national importance under *Dhanasar's* first prong.

The Petitioner also provided an "Expert Opinion Letter" from Dr. V-L-, Associate Professor of Marketing at [redacted] in support of his national interest waiver. Dr. V-L- contends that the Petitioner's proposed work will provide "administrative, workplace, and employee development consulting services, generating a chain of benefits for the client," but he does not identify any specific companies or entities that have been or will be serviced by [redacted] in a manner indicative of broader implications to the field or industry. Nor does the record indicate that the Petitioner's company would employ a substantial number of U.S. workers or otherwise have a significant economic impact as contemplated in *Dhanasar*. *See id.* at 890. The advisory opinion from Dr. V-L- does not demonstrate how the Petitioner's day-to-day management of his company's operations and consulting work as contemplated by his proposed endeavor rises to a level of national importance. The letter from Dr. V-L- does not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed endeavor offers broader implications in his field or substantial positive economic effects for our nation that are indicative of its national importance.

In the decision denying the petition, SCOPS determined that the Petitioner had not established the national importance of his proposed endeavor. SCOPS stated the Petitioner had not demonstrated that his undertaking "has implications beyond his company or any particular company or organization for which he would provide his services (or for any individuals who may use his services), rising to the level of national importance." In addition, SCOPS indicated the Petitioner had not shown that his proposed work stands to yield a level of job creation indicative of substantial positive economic effects.

In his appeal brief, the Petitioner points to his education and "over fifteen (15) years of progressive experience in the business field, where he has developed significant expertise in business administration, staff recruiting, selection, hiring, training, and management." The first prong of the *Dhanasar* framework focuses on the proposed endeavor; not on the Petitioner's prior work in the field, business skills, academic record, or other qualifications. The national importance of the Petitioner's proposed endeavor stands separate and apart from his education, skills, and job experience.[2]

The Petitioner also contends that there is "an impending shortage of business professionals in the United States" and that his work "will be addressing an industry shortage, which cannot be addressed by U.S. workers as demand exceeds supply." We are not persuaded by the argument that the Petitioner's proposed endeavor has national importance due to an impending shortage of workers in his industry. Here, the Petitioner has not established that his proposed endeavor stands to impact or significantly reduce the claimed national shortage. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

In addition, the Petitioner argues that his proposed endeavor has national importance because it "supports several federal priorities" relating to "the American Rescue Plan Act, the CHIPS and Science Act, and workforce development programs administered by the U.S Departments of Labor and Commerce." He maintains that his undertaking "has broader implications for the field of human capital management" and that [redacted] "services are not isolated or local in scope." The Petitioner, however, has not provided evidence demonstrating that his proposed business activities would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the potential prospective impact of his proposed endeavor stands to offer broader implications in his field or to generate substantial positive economic effects in the region where his company will operate or in other parts of the United States.

The Petitioner further claims that his proposed endeavor "is projected to generate $6.3 million in revenue and contribute nearly $400,000 in taxes within its first five years of operation, while directly creating 29 full-time jobs in Florida." As for the job creation, business activity, and tax revenue that the Petitioner asserts his proposed endeavor will offer, the record does not contain sufficient supporting evidence. The preponderance of the evidence standard requires the evidence demonstrate that the petitioner's claim is probably true, where the determination of truth is made based on the factual circumstances of each individual case. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, truth is to be determined not by the quantity of evidence alone but by its quality. *See id.* Here, lack of supporting details and corroborating evidence detracts from the credibility and probative value of the Petitioner's claims regarding job creation and other substantial positive economic effects.

Additionally, the Petitioner asserts that his undertaking "promotes societal welfare" and offers resources "for organizations striving to build and manage diverse global workforces effectively." To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. While the Petitioner's

[2] *See Dhanasar* at 890.

statements reflect his intention to provide human resources consulting services to his company's clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. 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, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his company and its clientele to impact his field, the human resources industry, societal welfare, federal initiatives, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner 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 our nation. Specifically, he has not demonstrated that his company's future staffing levels and business activity stand to provide substantial economic benefits in Florida or in other parts of the United States. While the Petitioner claims that his company has growth potential, he has not presented evidence indicating that the benefits to the regional or national economy resulting from his undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. In addition, although the Petitioner asserts that his endeavor stands to generate jobs for U.S. workers, he has not offered sufficient evidence that his endeavor offers Florida or the United States a substantial economic benefit through employment levels or business activity.

The Petitioner has not established that his proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance.

B. The Remaining *Dhanasar* Prongs

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. As this issue is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of his eligibility under the second and third prongs of 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 he has not established he 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, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are

otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.