U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39685570

Date: NOV. 04, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an 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
- On balance, waiving the job offer requirement would benefit the United States.

[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).

Id.

II. ANALYSIS

The Petitioner intends to "establish and lead the operations of [redacted] in the United States, a Florida-based enterprise dedicated to professional cleaning and disinfection services," focusing on "hospitals and other institutions in the healthcare industry," such as hospitals, clinics, cleanrooms in pharmaceutical and biotech production, and biosafety laboratories and facilities. The Petitioner aims to offer sterilization services with dry fog technology, antibacterial flooring installation, and contamination control based on the assessment of pathogen presence "in environments, surfaces, equipment, and utensils."

SCOPS determined 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 a waiver of the requirements of a job offer, and thus a labor certification, would be in the best interest. SCOPS determined the Petitioner's proposed endeavor has substantial merit but that its national importance was not established under the first *Dhanasar* prong. Though SCOPS concluded the Petitioner demonstrated he is well-positioned to advance his proposed endeavor under the second *Dhanasar* prong, it also found that, on balance, the Petitioner did not meet the third *Dhanasar* prong's requirements to show it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

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.* SCOPS determined that the Petitioner established his proposed endeavor has substantial merit and we agree.

SCOPS concluded, however, that the Petitioner did not establish the national importance of his proposed endeavor. Overall, SCOPS found the record, including the Petitioner's business plan and submitted background documents, insufficient to establish that the Petitioner's proposed endeavor has national importance under *Dhanasar*.

On appeal, the Petitioner asserts SCOPS erred in its conclusion as its decision "disregards the broader implication of [the Petitioner's] work in infection control and public health," appears to apply an elevated evidentiary standard, and fails to address the "specific and innovative aspects" of his proposed endeavor. Although the Petitioner does not specify how SCOPS failed to apply the appropriate evidentiary standard, the Petitioner contends SCOPS' capricious and arbitrary decision evidently misapplied the *Dhanasar* framework as he "submitted substantial and credible evidence supporting the national importance of his proposed endeavor."

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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.

The Petitioner asserts his work relates to the public health challenge of "infection prevention in medical and pharmaceutical settings," and contends that healthcare-associated infections (HAIs) have been identified as a critical concern and national priority by agencies such as the Centers for Disease Control and Prevention and the Agency for Healthcare Research and Quality. The Petitioner contends his work has the "potential to reduce healthcare complications and deaths due to HAIs." We acknowledge the importance of the field implicated by the Petitioner's proposed endeavor, including infection prevention. However, the determination of national importance does not focus on the importance of a field in general, but rather "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Here, the Petitioner asserts that his proposed endeavor, [redacted] "introduces advanced cleaning and disinfection services aimed at mitigating infection risks in critical sectors like healthcare." As discussed, the Petitioner claims [redacted] will implement technological tools including a "proprietary dry fog disinfection system," "mobile microbiological testing capabilities," and "antibacterial and contamination-resistant flooring and surfaces." However, the Petitioner does not discuss the details of the technology he intends to employ, including whether or how they are unique methodologies in infection control and prevention. The Petitioner also does not address how the benefits of the Petitioner's work would extend beyond his business and its own clients. Overall, the Petitioner does not demonstrate how his proposed endeavor will substantially benefit the healthcare industry and the field of infection prevention to the level contemplated by *Dhanasar*. *Cf. Matter of Dhanasar*, 26 I&N Dec. at 889 (finding an undertaking may have national importance because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances). Here, the Petitioner has not demonstrated that the innovations he intends to employ through [redacted] will differ from or improve upon those already available and in use in the United States.

The Petitioner also asserts his business plan evidences both his proposed endeavor's significant potential to employ U.S. workers and its substantial positive economic effects. The Petitioner indicates that his plan "projects the creation of 13 direct U.S. jobs within five years" and the generation of "up to 66 indirect jobs, based on employment multipliers." In addition, the Petitioner asserts his plan "reflects a scalable business model that will continue to generate jobs," coupled with an expectation that [redacted] payroll will grow to $660,000 annually within five years and result in over $626,000 in tax contributions within that time. However, the Petitioner's business plan does not elaborate on its employment and financial projections, as they are not supported by details showing their basis or an explanation of how they will be achieved. The Petitioner has also not demonstrated that [redacted] future staffing levels and business activity projections stand to provide substantial economic benefits to Florida or other parts of the United States that would reach the level of substantial positive economic benefits contemplated by *Dhanasar*. *Id.* at 890. While any company's economic activities have the potential to positively affect the economy to some degree, the Petitioner has not demonstrated the potential prospective impact of his proposed endeavor stands to generate substantial positive economic effects in the region where his company will operate or other parts of the United States.

For the reasons stated above, the Petitioner has not demonstrated 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. 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.

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.