U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40230097

Date: NOV. 4, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a project engineer, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or an alien 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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish that a waiver of the classification's job offer requirement, 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 because the Petitioner did not establish that his proposed endeavor has national importance and thus, he did not meet the national importance requirement of the first prong of the *Dhanasar* framework. *See Matter of Dhanasar*, 26 I&N Dec. at 884. Because this identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the remaining *Dhanasar* prong. *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).

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.[1] 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *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,[2] 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.

Id.

II. ANALYSIS

The Director determined that the Petitioner was a member of the professions holding an advanced degree.[3] The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

The Petitioner states that he is a project engineer with more than 30 years of experience in control valve engineering, industrial automation, and systems implementation. He states that his proposed endeavor is to advance his career as a project engineer in "leadership positions in the project engineering sector of American companies, as well as ... autonomously in the consulting and advisory area." The Petitioner states that his engineering project management company will offer "specialized consulting services to enhance project efficiency and quality [focusing] on the application of engineering principles to project design and execution, ensuring optimal use of resources and adherence to industry standards." The Petitioner states that his proposed endeavor includes training new professionals and transmitting knowledge to enhance the field. He states that "[his] venture is strategically positioned to inject significant value into various sectors by delivering essential project engineering services, catalyzing innovation, propelling economic advancement, and elevating the caliber of project outcomes."

With the initial filing the Petitioner submitted his resume and evidence of his education and experience, certificates of achievement and recognition, awards, and recommendation and support

[1] Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

[2] *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

[3] The record demonstrates that the Petitioner holds the equivalent of a U.S. bachelor's degree awarded in 2004 and possesses at least five years of progressive post-baccalaureate experience in the specialty. *See* 8 C.F.R. § 204.5(k)(3)(i)(B).

letters. He also provided evidence of his professional licenses in engineering and accounting, and of his role as president of the [redacted] Brazil. The Petitioner also provided articles and industry reports on mechanical engineering, project engineering, management consulting, entrepreneurship and talent shortages in engineering.

Following initial review, SCOPS issued a request for evidence (RFE), allowing the Petitioner an opportunity to submit additional evidence in attempt to establish his eligibility for the national interest waiver. SCOPS specifically noted that, although his proposed endeavor has substantial merit, the Petitioner did not provide sufficient evidence to establish that the proposed endeavor was of national importance, that he is well-positioned to advance his proposed endeavor, or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of the labor certification.

The Petitioner's response to the RFE included additional letters verifying the Petitioner's experience, a business plan, an expert opinion letter, and his personal financial records. The Petitioner also submitted additional articles and industry reports discussing the field of engineering, industrial automation and control systems, and business processing optimization.

In the Petitioner's business plan, he states that, through his business, [redacted] he will "offer a comprehensive range of services focused on delivering cutting-edge solutions in control systems, industrial automation, and project engineering to clients in key industries such as energy, oil and gas, and manufacturing." The business plan states that the business will operate in [redacted] Texas and will offer engineering consultancy services focusing on the design, implementation, and optimization of industrial automation processes and control systems. The Petitioner also states that his business will provide custom-designed control valve products and will offer technical training programs. The business plan includes an industry and market analysis, personnel plan, and financial forecast.

After reviewing the Petitioner's RFE response, SCOPS determined that the Petitioner had submitted sufficient evidence to demonstrate that his proposed endeavor has substantial merit and that he is well-positioned to advance his proposed endeavor. However, SCOPS concluded that the Petitioner did not establish that his proposed endeavor has national importance. SCOPS further concluded that the Petitioner had not demonstrated that, on balance, waiving the job offer requirement would benefit the United States. SCOPS stated that the record did not demonstrate that the Petitioner's proposed endeavor will have a regional or national impact at a level consistent with having national importance, or that the Petitioner's work will have broader implications in his field of endeavor. SCOPS noted that the Petitioner's reliance on the importance of the field is insufficient to establish that his proposed endeavor is of national importance. Additionally, SCOPS determined that the Petitioner did not demonstrate national interest factors such as the impracticality of a labor certification, the benefit of his prospective contributions to the United States, an urgent national interest in his contributions, the potential creation of jobs, or that his self-employment does not adversely affect U.S. workers.

On appeal, the Petitioner submits a brief and asserts that SCOPS' decision incorrectly applied the legal standard of *Matter of Dhanasar*, "specifically in relation to national importance." The Petitioner disagrees with SCOPS' decision and states that "certain aspects of [his] proposed enterprise particularly its national relevance and the non-displacing, independent nature of its implementation

may not have been fully appreciated in the adjudication process." In his brief on appeal, the Petitioner references evidence already in the record and states that this evidence demonstrates by a preponderance of the evidence that he merits a national interest waiver. He also provides email correspondence between himself and an executive of [redacted], which he states "demonstrates real market demand [and] confirms that [his] proposed endeavor is actionable, relevant, and aligned with the operational needs of leading players in U.S. industry."

On appeal, the Petitioner references the broad assertions in his business plan and expresses general disagreement with SCOPS' conclusions. However, he does not specify how SCOPS erred as a matter of law or in statement of fact. An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(1)(v). Nevertheless, for the reasons discussed below, we agree with SCOPS' conclusion that the proposed endeavor, while substantially meritorious, does not have national importance.

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. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner's proposed endeavor is in project engineering. We agree with SCOPS that the Petitioner's endeavor has substantial merit.

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.

The Petitioner submitted his business plan in attempting to support the national importance of his proposed endeavor. On appeal, the Petitioner asserts that the plan demonstrates that his business "will support sustainable growth and resilience in America's industrial backbone," and that his services will "reduce the reliance of American companies on foreign engineering contractors and imported control technologies." The Petitioner's business plan provides general information about his proposed business, [redacted] including a description of the nature and scope of the business, a marketing strategy, and a review of the company's strengths. The plan provides general predictions that the business "will be instrumental in helping the U.S. achieve its long-term strategic objectives in technology, industry, and environmental stewardship." The Petitioner does not support these assertions with sufficient independent, objective evidence. Rather, the Petitioner's business plan provides generalized projections that are not specific and detailed enough to establish the potential prospective impact of his proposed endeavor.

In the business plan, the Petitioner describes his "national-level impact" with his proposed endeavor. The Petitioner states that his proposed endeavor will result in substantial social and economic benefits, including job creation and training that "will help bridge the existing skills gap in the U.S. workforce."

He states that his business "will generate significant fiscal contributions through business growth, taxes, and infrastructure investment, further supporting U.S. economic prosperity." However, in describing [redacted] "personalized training," the business plan discusses the benefits this training will have for the Petitioner's company and clients but does not address broader public or commercial implications at a level consistent with national importance for project engineering. "Benefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a person's endeavor has national importance." 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual.

Similarly, the business plan discusses the company's use of "state-of-the-art tools and methodologies" to create customized control valves and industrial components "designed in-house." However, the Petitioner does not describe these tools and methodologies or explain how the Petitioner's product differs from or improves upon those already available and in use in the United States. As noted in the USCIS Policy Manual, "a person developing a particular technology for use or sale by a given company may not be able to establish national importance based on evidence that this technology will have benefits for the company or its clients alone." *Id.* The record does not include evidence of "widespread interest in adoption or licensing of the technology, a novel and important manufacturing or operational process, or how the technology stands to impact the development of similar technology by other companies." *Id.*

In *Dhanasar,* we 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." *Matter of Dhanasar*, 26 I&N Dec. at 890. To bolster his statement that his proposed endeavor will "offer region-wide or national economic uplift," the Petitioner references the Small Business Administration HUBZone program and asserts that his business "is designed to engage regional talent, expand technical capacity, and serve clients located in economically mixed or transitional zones."[4] However, the Petitioner has not demonstrated that his business meets the requirements for HUBZone certification. Further, to the extent that the Petitioner is trying to equate his business being in a HUBZone with *Dhanasar's* emphasis on job creation and economic effects in an "economically depressed area," the evidence does not establish the company's ability to qualify for HUBZone certification, nor does it sufficiently explain how merely locating his office in a HUBZone qualifies as "substantial positive economic effects, particularly in an economically depressed area." And, even if the Petitioner's business were to yield new jobs in a HUBZone location (a fact he has not established), the economic impact from this potential hiring is too amorphous to be considered of national importance as contemplated in *Dhanasar*. *Id.* at 890.

[4] The HUBZone program promotes business growth in underutilized business zones with the goal of awarding three percent of federal contract dollars to companies that are HUBZone certified. *See* https://www.sba.gov/federal-contracting/contracting-assistance-programs/hubzone-program. Operating a business in an HUBZone offers several advantages including eligibility for federal contracting preferences, access to set-aside contracts, and potential tax incentives. *Id.* Businesses seeking HUBZone certification must ensure that their business is owned and controlled by U.S. citizens, a community development corporation, an agricultural cooperative, or an Indian tribe. *Id.* Further, the business' principal office must be located in the designated HUBZone, and it must be the location where the greatest number of employees perform their work. *Id.*

In the business plan, the Petitioner projects that his business will have a total of 20 employees by its fifth year, including himself as chief executive officer. In his projected financial information, the Petitioner projects that his business will have revenues of up to $3.7 million and a net profit of more than $1 million by its fifth year. We acknowledge that the Petitioner's business plan projects the creation of jobs, revenue, and taxes paid by its fifth year of operation, however the plan does not sufficiently detail the basis for the revenue and staffing projections, nor does it adequately explain how the revenue and staffing projections will be realized. *Matter of Chaw*athe, 25 I&N Dec. at 376. As such, without more, he has not established that his endeavor will have substantial positive economic effects at a level commensurate with national importance. *Matter of Dhanasar* at 890.

Apart from job creation and boosting the economy, the Petitioner asserts additional positive impacts that will stem from his proposed endeavor, including alignment with national priorities, "particularly those related to reindustrialization, technological advancement, and the strengthening of critical infrastructure across the United States." He asserts, for instance, "The innovations that the company will implement in smart factories, energy facilities, and critical infrastructure will improve operational safety and energy efficiency, with effects across the supply chain."

In support of these claims, the Petitioner relies on industry, government, and research reports to establish the national importance of his proposed endeavor, and the broader impacts that will flow from it. We acknowledge the importance of U.S. government initiatives focused on critical and emerging technologies and other STEM [science, technology, engineering, and mathematics] areas important to U.S. competitiveness. However, the fact that a petitioner is qualified for and may accept a position in an industry or sector that is the subject of national initiatives is not sufficient, in and of itself, to establish the national importance of a specific endeavor. In determining national importance, 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 foreign national proposes to undertake." *Id*. at 889. None of the reports or articles provided discuss the Petitioner's specific proposed endeavor or its impact. As such, while the reports provide a background to better understand the industry or field in which the Petitioner's business will operate, they are insufficient to establish the national importance of his proposed endeavor.

The Petitioner also submits recommendation letters from former colleagues. We note that the letters describe the Petitioner's job duties, rather than describing achievements that had broad implications to the field of project engineering or identifying skills that differ from or improve upon those already available and in use in the United States. Although the letters praise his qualifications and professionalism, the Petitioner's skills, expertise, and abilities 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 he proposes to undertake has national importance under *Dhanasar's* first prong.

To support the claimed national importance of his proposed endeavor, the Petitioner references an expert opinion prepared by [redacted] We acknowledge that the expert opinion includes an analysis of the national importance of the Petitioner's proposed endeavor. In his analysis [redacted] discusses the Petitioner's academic and professional background. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or

give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, the advisory opinion is of little probative value as it does not meaningfully address the details of the Petitioner's specific proposed endeavor and why it would have national importance. [redacted] quotes from the Petitioner's business plan but does not elaborate on how the Petitioner's specific proposed endeavor will have a prospective impact on the United States. Rather, his opinion is general in nature, concluding that, because the Petitioner's proposed endeavor is to improve industrial automation, it has national importance.

On appeal, the Petitioner also asserts that evidence of interest in his proposed endeavor further demonstrates its national importance. However, the correspondence between himself and an executive of [redacted] does not include sufficient detail. In the email, the executive states, "I'll see if I have any opportunity available for your skill set." However, the email does not specifically discuss the Petitioner's proposed endeavor or describe any potential opportunity. The Petitioner does not submit any information about [redacted] or explain how one private entity's interest in working with him demonstrates a potential prospective impact contemplated by *Dhanasar*.

In sum, the Petitioner has not established that his proposed endeavor stands to sufficiently extend beyond his clients to impact his field more broadly at a level commensurate with national importance. Nor has he shown that the work he proposes to undertake offers original innovations that contribute to advancements or otherwise has broader implications for his field. Furthermore, the Petitioner has not demonstrated that his specific endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. The Petitioner has not established that benefits to the regional or national economy resulting from his endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Matter of Dhanasar*, 26 I&N Dec. at 890.

The Petitioner continues to rely upon the asserted demand for the services he will provide, his professional experience and achievements, and the importance of the field of project engineering generally. "Claims lacking corroborating evidence are not sufficient to meet the petitioner's burden of proof." 6 *USCIS Policy Manual* F.5(D)(6). As set forth above, the evidence does not sufficiently demonstrate the Petitioner's proposed endeavor's national importance. Therefore, we conclude that the Petitioner has not met the requisite first prong of the *Dhanasar* framework.

As the Petitioner has not established the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* framework, he is not eligible for a national interest waiver and further discussion of the balancing factors under the third prong would serve no meaningful purpose. As noted above, we reserve the Petitioner's appellate arguments regarding the remaining *Dhanasar* prong.[5] *See INS v. Bagamasbad*, 429 U.S. at 25.

[5] Even if we had addressed the remaining issues, we still would have dismissed this appeal. As noted above, SCOPS concluded that the Petitioner did not establish the national importance of his proposed endeavor, or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. On appeal, the Petitioner references the same supporting evidence submitted with the original petition and RFE response and does not provide new evidence in support of these factors. SCOPS fully addressed the previously submitted evidence and

III. CONCLUSION

As the Petitioner has not met all of the requisite three prongs set forth in 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.

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.

explained how it was deficient in establishing that the Petitioner met the three *Dhanasar* factors and would be eligible for a national interest waiver. The Petitioner's assertions on appeal do not establish that he meets all of the three *Dhanasar* prongs.