U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37847749

Date: NOV. 10, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur in the field of education, seeks classification as a member of the professions holding an advanced degree. *See* section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this employment based second preference (EB-2) classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i).

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.

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

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.

Id.

II. ANALYSIS

A. EB-2 Classification

SCOPS determined the Petitioner is eligible for EB-2 classification as a member of the professions holding an advanced degree. Because we are dismissing this appeal on the dispositive issue explained below, we reserve our review of the Director's conclusion regarding his eligibility for EB-2 classification. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting 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).

B. Substantial Merit and National Importance

The Petitioner indicated that the proposed endeavor will be an entrepreneur in the field of education since he will operate a business that is a "strategic initiative aimed at bridging educational and cultural exchanges between Brazilian and American students." SCOPS denied the petition, concluding that although the Petitioner is eligible for EB-2 classification as an advanced degree professional, he did not establish that a waiver of the job offer, and labor certification requirement, is in the national interest. Upon review, for the reasons discussed below, we agree that the Petitioner has not sufficiently demonstrated the national importance of the proposed endeavor in order to establish eligibility under the first prong of the *Dhanasar* analytical framework. While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

Although SCOPS determined that the proposed endeavor had substantial merit, SCOPS concluded the record did not establish that the endeavor is of national importance.[2] On appeal, the Petitioner submits a brief that reiterates arguments concerning the purported national importance of the proposed endeavor and cites documentation previously included in the record. The Petitioner generally alleges on appeal that SCOPS "did not apply the proper standard of proof in this case, instead imposing a stricter standard, and erroneously applied the law, to [his] detriment . . .." The standard of proof governing immigration benefit requests is "preponderance of evidence." *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met their burden under the preponderance standard, we evaluate whether a petitioner's claims are "more likely than not" or "probably" true, but

[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).

[2] On appeal, the Petitioner contends that SCOPS determined the proposed endeavor lacked substantial merit. However, this is not accurate, as SCOPS in fact found that the proposed endeavor does have substantial merit.

also consider the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, the Petitioner does not further explain or identify any specific instance in which SCOPS applied a standard of proof other than the preponderance of evidence in denying the petition. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

On appeal, the Petitioner states SCOPS applied a stricter standard of proof and did not sufficiently review all evidence. Specifically, he asserts SCOPS did not sufficiently consider his business plan, recommendation letters, industry reports and articles, and résumé. However, in the decision, SCOPS discussed the industry reports and articles and letters of recommendation, and the Petitioner's qualifications and experience. The Petitioner does not explain what specific content SCOPS failed to consider or how the record contains evidence that overcomes SCOPS' analysis and findings. Therefore, we do not find support for the Petitioner's assertion that SCOPS applied a stricter standard of proof and did not properly review all evidence.

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 "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. As it relates to the Petitioner's experience and ability claims, those relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. Moreover, the Petitioner must establish the national importance of his business rather than the importance of education, immigration, and entrepreneurism.[3] Further, "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.* The broader implications of the proposed endeavor can inform us of the proposed endeavor's national importance. That is not to say that the implications are viewed solely through a geographical lens. Broader implications can reach beyond a particular proposed endeavor's geographical locus and focus. And 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. For entrepreneurial endeavors, in determining an endeavor's national importance, we also consider additional factors such as revenue growth, revenue generation, and job creation in our analysis. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(4), ("Specific Evidentiary Considerations for Entrepreneurs").

On appeal, the Petitioner states that he has over 30 years of professional experience and has gained specialized knowledge in business administration and pedagogical methodologies in key areas of the education industry that are of national importance to the economy based on its "inherent value as well as the ripple effects it generates upon the commercial markets, foreign investment activities, and to the U.S. educational industry." The Petitioner further contends that his "direct knowledge of pedagogy will benefit any U.S. companies and individuals that need qualified professionals who possess expertise in academic administration and educational management, among other things." The Petitioner repeatedly emphasizes his experience, skills, and knowledge. The Petitioner's experience and abilities in his field relate to the second prong of the *Dhanasar* framework, which "shifts the focus

[3] The Petitioner's contentions and submissions of industry articles and reports relates to the substantial merit of the proposed endeavor rather than the national importance.

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.

Moreover, 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. The Petitioner did not offer specific information and evidence to corroborate his assertions that the prospective impact of running a business to bridge cultural and educational exchanges between the United States and Brazil rises to the level of national importance. In *Dhanasar*, we determined 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, the record does not show through supporting documentation how his specific services stand to sufficiently extend beyond his prospective clients, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance, rather than just claiming a "ripple effect." The Petitioner provided very general notions of national impacts but did not provide specific information on how his business that services clients in a certain area can actually have a national impact. We further note that his assertions with respect to the shortage of education professionals in the United States, like him, does not render his proposed endeavor nationally important under the *Dhanasar* framework because the U.S. Department of Labor directly addresses these shortages through the labor certification process.

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. On appeal, the Petitioner states that it "plans to operate in underutilized business zones identified by the Small Business Administration's HUBZone program."[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.

Upon review of the business plan, the Petitioner projects that his business will have a total of 35 direct employees by its fifth year, in addition to the Petitioner's position as chief executive officer and educational director, and the marketing and sales director. In his projected financial information, the Petitioner projects that his business will make annual tax contributions of $526,599 by the fifth year.

[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.*

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.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. We acknowledge the Petitioner's arguments on appeal as to the second and third prongs of *Dhanasar* but, having found that the evidence does not establish the Petitioner's eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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 the applicant is otherwise ineligible).

III. CONCLUSION

As the Petitioner has not met the *Dhanasar* analytical framework's requisite first prong, we conclude that he has not established that 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.

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.