U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40004550

Date: NOV. 12, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a chief executive officer (CEO), 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).

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

[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).

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

Id.

II. ANALYSIS

The Petitioner proposes to work in the United States as a CEO of [redacted] LLC doing business as [redacted] and its subsidiary, [redacted] LLC ([redacted]). SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree.[2] 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.

SCOPS concluded that the Petitioner's proposed endeavor has substantial merit and that he is well positioned to advance it. SCOPS determined, however, that the Petitioner did not establish the proposed endeavor's national importance, and that, on balance, it would benefit the United States to waive the job offer requirement. In denying the petition, SCOPS found that the Petitioner did not establish his proposed endeavor's national importance as he did not demonstrate that the proposed endeavor stands to affect or advance the broader industry, has implications beyond the company's clients and future employees, has significant potential to employ U.S. workers, or offers substantial positive economic effects for the nation. On appeal, the Petitioner argues that SCOPS failed to review and consider all relevant evidence and apply the correct legal standard and instead applied a heightened standard.

While we do not discuss every piece of evidence individually, we have reviewed and considered each one. The Petitioner seeks to "create and sell new food products with a focus on Hispanic flavors and cultural dishes" through his two companies. He states that he is the CEO of both companies with [redacted] offering "high-quality bulk food ingredients from global regions, such as Chile and Peru" and [redacted] "sourcing and manufacturing organic superfoods from Chile." The Petitioner further explains that his companies produce functional foods and have partnerships with national and regional retailers to sell products at over 10,000 locations across the United States. In support, the Petitioner submitted documents including company sales figures, product lists, corporate formation records, industry reports and articles, and letters of support.

The Petitioner asserts that his companies have potential prospective impacts on a national level because the companies' products "have been sold to major, well-known businesses" throughout the United States and that there is "a significant demand for functional and organic foods." In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. 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 Petitioner proposes to undertake. *See Dhanasar*, 26 I&N Dec. at 889. 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,

[2] The Petitioner earned a Master of Business Administration from [redacted] in 2013.

particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. Here, the Petitioner has not provided sufficient evidence or detailed information to demonstrate that his proposed endeavor will bring substantial economic benefits for the country that would rise to the level of national importance.

The Petitioner declares that his business activities are "national in scope" because he has "online sales available across the United States." He claims that his products "enhance societal welfare, meeting the needs of consumers whose food practices have often resulted in obesity and related disease, and who traditionally have not been able to access healthy foods in their neighborhoods and store." While we recognize the substantial merit of increasing access to healthy foods, the record does not establish that the Petitioner's business activities stand to sufficiently extend beyond his clients to enhance societal welfare on a broader scale indicative 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, the record does not establish that the Petitioner's proposed endeavor's impact will be nationally important.

The Petitioner contends that his two companies have "created and sold thousands of functional food products" across the United States. In particular, the Petitioner contends that [redacted] had "a gross aggregate income of approximately $1.5 million" while [redacted] "earned in gross sales $1.6 million." He further contends that his "companies have potential prospective impacts on a national level" because his products have been sold across the United States to "well-known businesses."

While we acknowledge that the Petitioner's companies may generate substantial revenue, he has not sufficiently demonstrated how they would contribute to nationwide economic growth. Moreover, the Petitioner has not shown that his endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for the United States. Although the Petitioner claims that his proposed endeavor has the potential to affect the U.S. national interest, the record does not support the Petitioner's general assertions with corroborating evidence demonstrating the plausibility of those assertions. It is insufficient to claim an endeavor has national importance or will create a broad impact without providing evidence to corroborate such claims.

The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his endeavor, the record does not indicate that the benefits to the regional or national economy resulting from the Petitioner's proposed endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *See Dhanasar*, 26 I&N Dec. at 890.

The Petitioner argues that he operates in a "niche industry" and that the "health of Americans is of national importance." He also claims to have established "nationwide linkages with significant national vendors and created a robust online sales presence to provide products to business and personal consumers." While we recognize the importance of the Petitioner's field, the relevant question when determining whether a proposed endeavor would have national importance 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 Petitioner proposed to undertake. *Id.* at 889. Furthermore, alignment with general national goals, in and of itself, does not necessarily establish that the Petitioner's endeavor

rises to the level of national importance. Here, the record does not include adequate corroborating evidence, to show that the Petitioner's specific proposed endeavor offers broader implications in his field, enhancements to U.S. societal welfare, or substantial positive economic effects for the country that rise to the level of national importance.

For the aforementioned reasons, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework. 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. Since this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the second and third prongs outlined in *Dhanasar*. *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).

III. CONCLUSION

The Petitioner has not established the national importance of his proposed endeavor, and he does not meet the first prong of the *Dhanasar* analytical framework. Consequently, the Petitioner has not demonstrated that he is eligible for or merits a waiver of the job offer and labor certification requirements in the national interest 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.