U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40288180

Date: NOV. 18, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a legal consultant and researcher of international tax law, 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 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 her proposed endeavor has national importance and thus, she did not meet the required first prong of the *Dhanasar* framework. *See Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). 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 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.*

Once 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

The Petitioner indicated on Form I-290B and in an accompanying letter that she would submit a brief within 30 days of filing her appeal. The appeal was received July 7, 2025, and as of the date of this decision, an appeal brief has not been received by our office. Our decision will therefore be based upon the basis statement included on Form I-290B.

The issue to be determined on appeal is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

The Petitioner states that she is an expert in the field of international tax law, with more than 20 years of experience as a licensed attorney and public certified tax consultant in China. She states that her research in international taxation and tax treaties has "not only benefited the foreign multinational corporations, foreign government and non-government institutions' investment and undertakings in China, but also greatly contributed to Chinese conglomerates' investment overseas, particularly in mining, energy, and infrastructures sectors in Africa, including many groundbreaking projects."

The Petitioner states that her proposed endeavor is to continue her current research "in the field of international taxation, tax treaties and their domestic applications in China, France and African countries." The Petitioner identified four specific areas of research for her proposed endeavor:

1. Targeted foreign investment incentives for green technologies.
2. International tax cooperation for environmental standards.
3. Tax policies supporting sustainable supply chains.
4. Fiscal policies for sustainable infrastructure development.

[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).

She intends to pursue her proposed endeavor through her current employer, [redacted], an international business law firm based in France, or through her own venture, collaborating "with U.S.-based legal/business consulting firms or non-government associations." She states that she will "continue publishing tax related articles in peer-reviewed journals to keep tax researchers and practitioners abreast of the key tax development in China, U.S., France and Africa in their international tax framework." She also states that, in her proposed endeavor, she will "spend at least one dedicated and intensive year at Law School of [redacted] to pursue an academic research and study on International Taxation and U.S. Tax Policy" as a visiting scholar.

SCOPS determined that the Petitioner was a member of the professions holding an advanced degree.[2] After reviewing the Petitioner's initial filing, as well as evidence submitted in response to a request for evidence (RFE), SCOPS determined that the Petitioner had submitted sufficient evidence to demonstrate that her proposed endeavor has substantial merit and that she is well-positioned to advance her proposed endeavor. However, SCOPS concluded that the Petitioner did not establish that her proposed endeavor has national importance, or 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 her field of endeavor. SCOPS noted that the Petitioner's reliance on the importance of the field is insufficient to establish that her proposed endeavor is of national importance.

On appeal, the Petitioner asserts on Form I-290B, Part 3., Basis for the Appeal or Motion, that SCOPS made a mistake of fact in not considering the academic and research aspects of her proposed endeavor to demonstrate broad national impact. She also states that SCOPS made errors of law in incorrectly applying a "prohibitively narrow and far more stringent" interpretation of the first prong of the framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, and in requiring that she demonstrate her proposed endeavor's potential to employ U.S. workers or otherwise offer substantial positive economic effects. The Petitioner further asserts that SCOPS failed to consider the totality of the evidence in its analysis of the third *Dhanasar* prong. As noted above, the Petitioner did not submit a brief or additional evidence on appeal.

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. As noted above, SCOPS determined that the Petitioner's proposed endeavor has substantial merit and we agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. 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 Id.* In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n

[2] The record demonstrates that the Petitioner was awarded a foreign degree equivalent to a U.S. master's degree 2003.

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.

Although the Petitioner contends that her plans to disseminate her research and findings through peer-reviewed journals show her endeavor would have broad national impact, beyond her employer, this statement is not supported in the record. The Petitioner emphasizes that her research work has had a broad impact in her field, pointing to her previous research work having been published in reputable industry publications and having "added to global academic knowledge in this area." While the Petitioner's previous research may help to understand her proposed endeavor, such previous work mainly relates to whether she is well-positioned to advance her endeavor under *Dhanasar's* second prong.

With regard to the Petitioner's assertions that SCOPS erred as a matter of law, other than general disagreement with the decision, the Petitioner does not identify how SCOPS misapplied the *Dhanasar* framework with a narrow interpretation of the proposed endeavor's national importance. To determine whether a petitioner has met their burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.; *see also Matter of E-M-*, 20 I&N Dec. 77, 79- 80 (Comm'r 1989). Here, SCOPS acknowledged documents submitted to evaluate the substantial merit and national importance of the Petitioner's proposed endeavor. Based on the record, SCOPS' decision is a reasoned interpretation and consideration of the evidence. The proposed endeavor, as described, and the evidence in the record do not support the Petitioner's assertions that the potential impact of her endeavor extends beyond her employer to have a broader impact in her field or implications rising to a level of national importance.

Further, SCOPS' decision does not indicate that it imposed a requirement that the Petitioner demonstrate her proposed endeavor's potential to employ U.S. workers or otherwise offer substantial positive economic effects. In accordance with the Policy Manual, SCOPS discussed this factor in the decision. *See* 6 *USCIS Policy Manual* F.5(D)(3), https: //www.uscis.gov/policy-manual. However, this is not the sole basis for SCOPS' decision, nor the only factor discussed in the decision.

The Petitioner continues to rely upon the asserted merits of the services she will provide, her personal and professional qualities and achievements, and the importance of foreign investment in sustainable development projects as a national initiative. However, as set forth above, the evidence does not sufficiently demonstrate the proposed endeavor's national importance. Therefore, we conclude that the Petitioner has not met the requisite first prong of the framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884.

As the Petitioner has not established the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* framework, she 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. *See INS v. Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

As the Petitioner has not met all of the requisite three prongs set forth in the *Dhanasar* analytical framework, we conclude that she has not established she 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.