U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40156052

Date: NOV. 20, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a rigging artist and entrepreneur in the entertainment industry, 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).

The Service Center Operations (SCOPS) denied the petition, concluding that although the Petitioner qualified as an advanced degree professional, he did not establish that a waiver of the required job offer, 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.

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

The Petitioner's proposed endeavor is to "design innovative, aesthetically appealing, and state-of-the-art technology-supported characters and scenes for film and television projects through [] rigging technologies." He explains that he will implement his endeavor by continuing to work with his current employer and by establishing his own studio to provide computer graphic design for animations, films, video games, and TV series. He also states he plans to conduct tutorials, case studies, and behind-the-scenes breakdowns of his projects to share his industry insights and mentor aspiring rigging artists, as well as promote technological innovation and advancement in rigging art.

A. EB-2 Classification

The Petitioner submitted his Master of Fine Arts in Animation degree and transcripts from [redacted] in Georgia. SCOPS determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether he qualifies for and merits a waiver of the job offer requirement in the national interest.

B. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* SCOPS determined that the Petitioner's proposed endeavor was of substantial merit, and we agree. However, SCOPS concluded the Petitioner did not establish that his proposed endeavor has national importance.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we noted that, in assessing national importance, "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.

[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 appeal, the Petitioner contends SCOPS erred in finding that he has not established the national importance of his proposed endeavor. Notably, however, the Petitioner does not point to specific examples of how SCOPS erred in their analysis of the evidence. By presenting only general disagreement with SCOPS' decision, without identifying the specific aspects of the denial he considers to be incorrect, the Petitioner does not sufficiently identify the basis for his appeal.[2] Nevertheless, we have reviewed the record in its entirety and we will explain why the Petitioner has not established the national importance of his endeavor under the first prong of the *Dhanasar* framework.

On appeal, the Petitioner discusses the importance of the entertainment industry in the United States, as well as the field of rigging design, and how it "generates hundreds of billions of dollars annually, supports millions of jobs, and drives related industries from fashion and consumer goods to tourism and digital technology." However, merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Id.* at 889. Instead, when determining whether the proposed endeavor has 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." *Id.* Thus, while we acknowledge that the field of rigging design and the entertainment industry are important, this fact is insufficient to establish the national importance of his proposed endeavor.

Further, the Petitioner emphasizes his experience in the field of rigging design including his work on [redacted] Yet, the Petitioner's knowledge, skills and experience are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated, by a preponderance of the evidence, the national importance of his proposed endeavor.

Moreover, he claims that since he will continue to research and innovate new technology for rigging artists, mentor junior rigging artists, and establish his own computer graphic studio, he will have significant potential to employ U.S. workers and other substantial positive economic effects. However, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for the nation. The Petitioner claims that rigging design is responsible for the success of entertainment projects such as [redacted] which "drive U.S. cultural influence, entrepreneurship, national economic growing, and exports." But the record does not establish that the success of these projects was due to the Petitioner's specific endeavor and not the actors or artists in the projects. Without evidence regarding any projected U.S. economic impact or job creation directly attributable to his future work, the record does not show any benefits to the U.S. regional or national economy resulting from his work would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.*

The Petitioner also references the letters of recommendation in the record. The authors praise the Petitioner's abilities and the personal attributes that make him an asset in the field of rigging design. While they evidence the high regard the Petitioner's employer and colleagues have for him and his work, they do not offer persuasive detail concerning the impact of his proposed endeavor or establish

[2] *Matter of Valencia*, 19 I&N Dec. 354, 354–55 (BIA 1986).

how such an impact would extend beyond his employer and its clients. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

Accordingly, we agree with SCOPS that the record does not demonstrate that the Petitioner's proposed endeavor will have broader impacts rising to the level of national importance.

C. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. To determine whether they are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890.

SCOPS determined that the Petitioner is well-positioned to advance his proposed endeavor, but without analyzing the evidence under the second prong. Upon de novo review, we disagree with SCOPS and withdraw SCOPS' conclusion. While the Petitioner has credentials and experience as a rigging artist, we conclude that the record does not demonstrate that he is well-positioned to advance his endeavor as a rigging artist and entrepreneur owning and operating a computer graphic design firm.

The *Dhanasar* decision spelled out several factors which can be considered in determining whether a petitioner is well-positioned to advance their proposed endeavor, including several which are pertinent to entrepreneurial endeavors. *Id.* These include a record of success in similar efforts, any progress towards achieving the proposed endeavor, and the interest of potential customers, users, investors, or other relevant entities or individuals. In this case, the record lacks evidence which supports any of these factors.

The Petitioner submitted his resume and recommendation letters from his current and former employers, and colleagues. The letters provide general descriptions of the Petitioner's job duties and praise the Petitioner's knowledge and skills. However, the letters do not further elaborate on or sufficiently explain how the Petitioner's work has been utilized in the field or otherwise constitutes a record of success. Moreover, the lack of specificity in the letters does not show how his work has affected the field or industry demonstrating a history of accomplishment, well positioning himself to advance his proposed endeavor.

In addition, the record lacks documentation of any progress towards achieving the proposed endeavor, which might include the establishment of the business as a legal entity, registration of the business, securing any necessary funding, renting or purchasing physical space for the business, and the hiring of employees and contractors. Further, there is no indication in the record that the Petitioner has successfully gathered interest from potential investors or customers. While "we do not ... require petitioners to demonstrate that their endeavors are more likely than not to ultimately succeed," here the record includes more information about his achievements as a rigging artist than about the prospects of his proposed business. *Id.* Accordingly, we disagree with SCOPS and conclude that the Petitioner has not established that he meets the second prong of the *Dhanasar* framework.

III. CONCLUSION

Because the Petitioner has not established eligibility under the first and second prongs of the *Dhanasar* analysis, we need not address his eligibility under the third prong, and we hereby reserve it. *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). The burden of proof is on the Petitioner to establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that he has not established eligibility for 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 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.