U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40304702

Date: NOV. 24, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a marketing manager and entrepreneur in the field of marketing, 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 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 establish a digital marketing and advertising services firm in [redacted] New Jersey. The Petitioner explains that his company will perform "multidisciplinary communication and digital marketing services to better position retailers and service providers." He also explains that his company's main services will include branding, visual identity, marketing plan, digital marketing, general graphic design, and video production and editing. In addition, the Petitioner states that he will also develop a youth program that "combines vocational training, social justice, and productive inclusion of youth in vulnerable situations." He asserts that his youth program will "prevent juvenile delinquency and promote integration by offering hands-on professional development, mentorship, and entry into the job market, particularly in the fields of communication, marketing, and advertising."

A. EB-2 Classification

The Petitioner submitted his foreign social communication – publicity and advertising degree and academic transcripts, along with a credential evaluation stating that he has the foreign equivalent of a U.S. bachelor's degree. The Petitioner also provided employment letters showing five years of progressive experience in the specialty. 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.

[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).

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.

On appeal, the Petitioner notes that SCOPS incorrectly stated that the Petitioner's proposed endeavor involved IT consulting in cybersecurity and this "factual inaccuracy materially distorted the officer's evaluation of national importance." The Petitioner further contends SCOPS applied a stricter standard of proof and did not sufficiently review all evidence. However, the Petitioner does not explain what specific content SCOPS failed to consider or how the record contains evidence that overcomes SCOPS' analysis and findings. Moreover, while SCOPS incorrectly mentioned one time in the decision that the proposed endeavor was in cybersecurity, the record reflects SCOPS properly and fully considered the proposed endeavor and the supporting evidence in digital marketing and advertising services. Throughout the decision, SCOPS properly discussed the Petitioner's personal statement, business plan, articles and reports, and recommendation letters. Therefore, we do not find support for the Petitioner's assertion that SCOPS mischaracterized the proposed endeavor, applied a stricter standard of proof, and did not properly review all the evidence.

Here, the Petitioner has not offered sufficient evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. On appeal, the Petitioner highlights that the benefits of his endeavor align with national priorities, including the Bureau of Labor Statistics, Small Business Administration, Department of Commerce, and Office of Juvenile Justice and Delinquency Prevention. The record includes industry reports and articles regarding the importance of digital marketing and advertising and the marketing industry, along with a copy of *The National Juvenile Justice Action Plan*. 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 marketing industry and the reduction of juvenile violence are important, these facts are insufficient to establish the national importance of his proposed endeavor.

In addition, the Petitioner asserts that his business plan and proposed endeavor statement explained "the endeavor's broader implications and national relevance" under *Dhanasar*. While the Petitioner submitted a business plan outlining the potential economic implications of his endeavor, he did not provide sufficient explanation or evidentiary support for the bases of his figures. We acknowledge that the Petitioner provided letters from his investors, but the letters do not address the company's projected expansion activities in any detail or otherwise corroborate or provide support for the job creation projections the Petitioner incorporated in his business plan. Moreover, even if the Petitioner had established a sufficient basis for these projections, they still do not establish the national importance of the proposed endeavor. While the projected income statement indicates that the Petitioner's marketing business has growth potential, it does not demonstrate that the benefits to the

regional or national economy resulting from his undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar* to establish its national importance. *Id.* at 890. Moreover, the business plan shows that the Petitioner plans to operate in underserved areas and underdeveloped communities identified in the Small Business Administration's HUBZone program."[2] In *Dhanasar,* as previously noted, 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." *Id.* 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.*

In *Dhanasar*, we also 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. Likewise, the Petitioner has not established how providing his marketing and advertising services stands to sufficiently extend beyond his clients to impact the field more broadly at a level commensurate with national importance, rather than just claiming a "ripple effect." On appeal, the Petitioner states that his proposed endeavor "generates national implications by enabling the scalable delivery of digital marketing infrastructure to underserve [small and medium-sized enterprises (SME)] across multiple U.S. states" and that "[r]ather than serving isolated clients, it establishes a replicable system capable of being adopted in economically distress regions nationwide." In support, the Petitioner submitted eight letters of intent from potential clients. The Petitioner, however, has not provided sufficient evidence demonstrating that his proposed business activities would operate on such a scale as to rise to a level of national importance. While we acknowledge the letters of intent, the letters do not establish the proposed endeavor's national importance because they only highlight that the endeavor's impact is to the individual client or companies that hire the Petitioner to provide his services. We further note that his assertions with respect to the shortage of digital marketing, design, and communication professionals in the United States 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.

We have also considered the expert opinion letter written by an assistant professor of marketing at [redacted] The associate professor opines that the Petitioner's proposed endeavor is

[2] 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.*

nationally important due to the digital marketing and advertising services industry's significance to the U.S. economy and the demand for marketing managers in the country. The associate professor, however, does not address the Petitioner's business plan, the specific proposed endeavor described therein, its prospective substantial economic impact, or any broader implications of the Petitioner's intended marketing and advertising services. USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a noncitizen's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, *see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value).

III. CONCLUSION

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address his eligibility under the remaining prongs, and we hereby reserve them.[3] *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 alternate 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.

[3] SCOPS determined the Petitioner meets *Dhanasar's* second prong however no analysis was provided to review that portion of the decision.