U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39489059

Date: OCT. 1, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a structural engineer consultant, 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 his proposed endeavor has national importance and thus, he did not meet the national importance requirement of the first prong of the *Dhanasar* framework. *See Matter of Dhanasar*, 26 I&N Dec. at 884. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.[1] 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a 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 demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *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,[2] 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 Director determined that the Petitioner was a member of the professions holding an advanced degree.[3] The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

The Petitioner states that he has more than 12 years of experience in structural engineering and has contributed to major government and commercial building projects, including collaboration on the reconstruction of Haiti following the 2010 earthquake. He states that his proposed endeavor is to serve as a "self-entrepreneur engineer consultant [to] both private and public initiatives focused on complying with the critical infrastructure current needs in the region." He states that the primary objective of his proposed endeavor "is to help ensure the structural integrity and resilience of public and private metal mechanical-based critical infrastructure, including bridges, highways, railways, power plants, and water treatment facilities in rural areas of Florida with notorious 1) shortages of qualified professionals within the field and 2) needs of improvement [of] current outdated infrastructure."

With the initial filing the Petitioner submitted his resume and evidence of his education and experience, certificates of achievement and recognition, awards, and recommendation and support

[1] Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

[2] *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

[3] The record demonstrates that the Petitioner holds the equivalent of a U.S. bachelor's degree awarded in 2013 and possesses at least five years of progressive post-baccalaureate experience in structural engineering. *See* 8 C.F.R. § 204.5(k)(3)(i)(B).

letters. He also provided evidence of his welding inspector license and memberships in welding and engineering professional associations.

Following initial review, SCOPS issued a request for evidence (RFE), allowing the Petitioner an opportunity to submit additional evidence in attempt to establish his eligibility for the national interest waiver. SCOPS specifically noted that the Petitioner did not provide sufficient specific information about his proposed endeavor and requested "a detailed description of the proposed endeavor and why it is of substantial merit." The Petitioner's response to the RFE includes additional letters verifying the Petitioner's experience, a business plan, an expert opinion letter, industry reports, and a strategic plan published by the U.S. Department of Transportation.

In the Petitioner's business plan, he states that, through his business, [redacted], he will "redefine structural engineering services across the United States, focusing on tailored designs, and sustainable construction practices." The business plan states that the business will operate in Florida and will offer structural design and analysis, project budgeting and quality control, workforce training programs, and disaster-resilient infrastructure planning. The Petitioner also states that his business will partner with local governments, private developers, and community organizations to promote rural economic growth, disaster preparedness, and public safety. The business plan includes a market and sales plan, personnel plan, pricing strategy and projected financial information. The Petitioner projects that his business will have a total of 20 employees by its fifth year, including himself as chief executive officer. In his projected financial information, the Petitioner projects that his business will have revenues of up to $775,866 and a net income of up to $395,499 by its fifth year.

After reviewing the Petitioner's RFE response, SCOPS determined that the Petitioner had submitted sufficient evidence to demonstrate that his proposed endeavor has substantial merit and that he is well-positioned to advance his proposed endeavor. However, SCOPS concluded that the Petitioner did not establish that his proposed endeavor has national importance. SCOPS further concluded that the Petitioner had not demonstrated 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 his field of endeavor. SCOPS noted that the Petitioner's reliance on the importance of the field is insufficient to establish that his proposed endeavor is of national importance. Additionally, SCOPS determined that the Petitioner did not demonstrate national interest factors such as the impracticality of a labor certification, the benefit of his prospective contributions to the United States, an urgent national interest in his contributions, the potential creation of jobs, or that his self-employment does not adversely affect U.S. workers.

On appeal, the Petitioner submits a brief and asserts that SCOPS' decision "is based on a misinterpretation of the evidence and an overextension of the requirements outlined in the USCIS Policy Manual and the *Dhanasar* decision." The Petitioner asserts that SCOPS erred in not assessing the totality of the evidence and applying the requisite preponderance of the evidence standard. In his brief on appeal, the Petitioner references evidence already in the record and states that this evidence demonstrates by a preponderance of the evidence that she merits a national interest waiver.

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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner's proposed endeavor is in structural engineering.

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, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890.

The Petitioner submits his business plan in attempting to support the national importance of his proposed endeavor. On appeal, the Petitioner asserts that the plan "includes specific strategies, projections and methodologies that illustrate his preparedness to operate and expand his business successfully in the U.S." The Petitioner's business plan provides general information about his proposed business, [redacted], including a mission and vision statement, company goals, and an industry outlook. The plan provides general predictions that the business will "foster resilience and growth within rural communities while contributing to economic and operational advancements in the construction and infrastructure industries." The Petitioner does not support these assertions with sufficient independent, objective evidence. Rather, the Petitioner's business plan provides generalized projections that are not specific and detailed enough to establish the potential prospective impact of his proposed endeavor.

In the business plan, the Petitioner states that he will be the sole owner with an equity contribution of $8,830. In describing the "broader impact" of his proposed endeavor, he states that he will collaborate with "contractors, public institutions, and community organizations," and that he will "establish at least 25 key partnerships annually, focusing on critical infrastructure development, workforce training programs, and sustainability-focused project planning." However, the Petitioner does not identify the partnerships or the collaborating public institutions and community organizations. Nor does he explain in detail how these partnerships will be created or provide documentary evidence of any existing partners or collaborators.

The business plan provides various "sales strategies" that the Petitioner intends to use to market his services. However, rather than providing detail about these strategies, the Petitioner provides only general information, including "targeted outreach [to] key decision-makers in local governments, developers, and small-to-medium businesses," and "networking events [to] actively participate in industry conferences, community forums, and expos to connect with potential clients and partners." The Petitioner does not identify the local government agencies or businesses for his outreach. Nor does he identify specific events in which he would participate to reach clients and partners.

The Petitioner's projection of creating 20 jobs within five years does not demonstrate a significant potential to employ U.S. workers or support that his proposed endeavor will have substantial positive economic effects. Although the Petitioner asserts that his proposed endeavor will "[transform] the way communities and industries approach construction, disaster resilience, and infrastructure development," the evidence does not suggest that the Petitioner's skills differ from or improve upon those already available and in use in the United States. Nor does the evidence demonstrate that the use of the Petitioner's experience will reach beyond benefitting his own company and clients or have broader implications within the field of structural engineering. The record does not establish that his proposed endeavor stands to impact the field as a whole.

The Petitioner submits a strategic plan of the U.S. Department of Transportation. The plan describes goals for "transformative investments that will modernize our infrastructure to deliver safer, cleaner, and more equitable transportation systems." Although the plan tends to support that infrastructure is a national initiative, the report does not specifically discuss the Petitioner's proposed endeavor. "In determining national importance, the officer's analysis should *focus on what the beneficiary will be doing* rather than the specific occupational classification." 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual (emphasis added).

When determining national importance, the relevant question is not the importance of the 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 Matter of Dhanasar*, 26 I&N Dec. at 889. Although we agree that infrastructure improvement is important and may be the subject of national initiatives, we conclude that this does not necessarily establish the national importance of the Petitioner's specific proposed endeavor. The record contains insufficient information or evidence regarding the Petitioner's proposed endeavor to show broad potential implications demonstrating national importance.

The Petitioner also submits recommendation letters from former colleagues. We note that the letters describe the Petitioner's job duties, rather than describing achievements that had broad implications to the field of structural engineering or identifying skills that differ from or improve upon those already available and in use in the United States. Although the letters praise his qualifications and professionalism, the Petitioner's skills, expertise, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus 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.

To support the claimed national importance of his proposed endeavor, the Petitioner references an expert opinion prepared by Dr. [redacted] of [redacted] University. We acknowledge that the expert opinion includes an analysis of the national importance of the Petitioner's proposed endeavor. In his analysis Dr. [redacted] discusses the Petitioner's academic and professional background. Dr. [redacted] states, "The proposed endeavor to work in the United States as a civil engineer addresses pressing infrastructure needs, contributes to industry growth, and supports development goals." However, Dr. [redacted] does not discuss any specific details of the Petitioner's proposed endeavor. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way

questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, the advisory opinion is of little probative value as it does not meaningfully address the details of the Petitioner's specific proposed endeavor and why it would have national importance. Dr. [redacted] does not elaborate on how the Petitioner's specific proposed endeavor will have a prospective impact on the United States, including the broad implications on structural engineering, the potential to employ U.S. workers, or the positive economic effects. Rather, his opinion is general in nature, concluding that, because the Petitioner's proposed endeavor is to improve infrastructure, it has national importance.

On appeal, the Petitioner relies upon the evidence he previously submitted and asserts that SCOPS "overextends the requirements by demanding additional evidence that is not explicitly required by the Policy Manual or *Dhanasar*." However, the Petitioner does not identify what specific evidence SCOPS demanded. Although the Petitioner describes an example of "mandat[ing] direct support from U.S. government agencies," SCOPS does not mention such evidence in the RFE. Nor does SCOPS indicate that the lack of evidence of support from government agencies was a factor in its decision to deny the petition.

The Petitioner goes on to state that SCOPS misinterpreted regulatory criteria in failing to "use a two-step analysis to evaluate evidence: first assessing whether the evidence meets regulatory criteria and then conducting a final merits determination by evaluating all evidence together." The Petitioner does not identify the specific regulation that he asserts was misinterpreted. Although the Petitioner references the USCIS Policy Manual, we note that the "two-step analysis" is applied "to evaluate the evidence submitted with the petition to demonstrate eligibility for *exceptional ability classification*." 6 *USCIS Policy Manual* F.5(B)(2), https://www.uscis.gov/policy-manual (emphasis added). Neither the regulations nor the Policy Manual require a "two-step evidentiary review" in assessing eligibility for a national interest waiver.

The Petitioner also asserts that SCOPS "overlooked substantial evidence" demonstrating that he is well positioned to advance his proposed endeavor. However, SCOPS determined that the Petitioner had established his eligibility under the second prong of the *Dhanasar* framework. And the Petitioner does not identify specific evidence that was overlooked in determining whether his proposed endeavor has national importance. While we agree that an adjudicator should consider the relevant evidence in the record,[4] the Petitioner does not sufficiently support his claim that there was relevant evidence that SCOPS did not consider. We note that the decision discusses each of the claimed pieces of evidence and includes several direct quotations. Nevertheless, we address them again herein.

The Petitioner states on appeal, "The USCIS decision to dismiss the expert opinion letters as non-probative by analyzing them in isolation is inconsistent with the holistic evaluation approach required by the *Dhanasar* framework and the USCIS Policy Manual." While we agree that an adjudicator must consider the totality of the circumstances in determining eligibility for the national interest waiver, this does not preclude a determination that an individual piece of evidence is deficient. Here, although SCOPS specifically noted that the recommendation and expert opinion letters in the record did not "provide any insight into how the specific proposed endeavor will have broad implications," the

[4] *See* 8 C.F.R. § 103.2(b)(1).

Petitioner does not provide additional corroborating evidence on appeal. The Petitioner continues to rely upon the asserted demand for the services he will provide, his professional experience and achievements, and the importance of the field of structural engineering generally. "Claims lacking corroborating evidence are not sufficient to meet the petitioner's burden of proof." 6 *USCIS Policy Manual* F.5(D)(6), https://www.uscis.gov/policy-manual. As set forth above, the evidence does not sufficiently demonstrate the Petitioner's proposed endeavor's national importance. Therefore, we conclude that the Petitioner has not met the requisite first prong of the *Dhanasar* framework.

As the Petitioner has not established the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* framework, he 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.[5] *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 he has not established he 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.

[5] Even if we had addressed the remaining issues, we still would have dismissed this appeal. As noted above, SCOPS concluded that the Petitioner did not establish the national importance of his proposed endeavor, or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. On appeal, the Petitioner references the same supporting evidence submitted with the original petition and RFE response and does not provide any new evidence. SCOPS fully addressed the previously submitted evidence and explained how it was deficient in establishing that the Petitioner met the three *Dhanasar* factors and would be eligible for a national interest waiver. The Petitioner's assertions on appeal do not establish that he meets all of the three *Dhanasar* prongs.