U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39567424

Date: OCT. 2, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is a quantitative analyst who 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 (NIW) 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 Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the record established that the Petitioner qualified for the underlying visa classification, but he did not merit a discretionary waiver of the job offer requirement in the national interest. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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
- On balance, waiving the job offer requirement would benefit the United States.

[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).

Id.

II. NATIONAL INTEREST WAIVER

A. Inconsistencies in the Claimed Proposed Endeavor

On appeal, the Petitioner argues that SCOPS' "denial conflates the Petitioner's employment title Quantitative Analyst with the proposed endeavor" and that "[t]his framing fundamentally distorts the nature of the Petitioner's work and ignores the consistent articulation of the endeavor throughout the record." The Petitioner's appeal brief states the following was clearly conveyed in the request for evidence response:

> The Petitioner's proposed endeavor is NOT to work as a Quantitative Analyst in an investment management firm. Rather, the Petitioner's proposed endeavor is to develop AI-enabled platforms to enhance real-time investment decisions, improve risk modeling, and facilitate industry-wide improvements in financial product design and systemic stability.

But that is not what he conveyed in the initial filing when the correspondence stated:

> The Petitioner's proposed endeavor is an extension of the groundbreaking work he has already been performing for over 5 years through his employment with major investing banking firms in the United States, including [redacted] and [redacted] He is now carrying out the proposed endeavor in the context of his employment [], *and his plan for the foreseeable future is to maintain that same employment.* While the Petitioner's day-to-day tasks may vary as client and project needs adjust.

(Emphasis added.) The result is an inconsistent and changing basis for the activity that the Petitioner intends to comprise his eligibility for the job offer waiver portion of this petition. The *Dhanasar* framework cannot be applied to two dueling proposed endeavors; a petitioner must identify the specific endeavor they propose to undertake. *See Matter of Dhanasar*, 26 I&N Dec. at 889. So it is not possible to determine the national importance of an endeavor when a Petitioner cannot consistently articulate the nature of the endeavor. Recognizing the need for a clear and consistent intention of what a petitioner's proposed endeavor will be, a petitioner must establish eligibility for the benefit they are seeking at the time the petition is filed. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). The Petitioner must resolve this discrepant information in the record. Such a resolution must be demonstrated through the submission of relevant, independent, and objective evidence that reveals which information is true. *Matter of Ho*, 19 I&N Dec. 582, 591–92 (BIA 1988). Attempts to explain or reconcile the conflicting accounts by itself without competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* This incongruity alone precludes this petition's approval.

B. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit

may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.*

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* When we evaluate national importance, the relevant question is not the importance of the industry or profession in which the alien will work. Rather, we focus on the "the specific endeavor that the alien proposes to undertake" and we look to evidence illustrating the "potential prospective impact" of his actual proposed work. *Id.* A petitioner must demonstrate the proposed endeavor will "impact the field . . . more broadly" (*Id.* at 893) and that it has "broader implications" (*Id.* at 889). Such endeavors may have "national or even global implications within a particular field" (*Id.* at 889), "significant potential to employ U.S. workers or [have] other substantial positive economic effects" (*Id.* at 890), or has the potential to widely advance and broadly affect U.S. strategic interests (*Id.* at 892).

USCIS policy also provides that "if the evidence of record demonstrates that the person's proposed endeavor has the significant potential to broadly enhance societal welfare or cultural or artistic enrichment, or to contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance." *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual (citing *Matter of Dhanasar*, 26 I&N Dec. at 889–90, 892).

Even if the above noted inconsistency was not present, the petition would remain denied. After reviewing the record, we adopt and affirm SCOPS' ultimate conclusion under *Dhanasar's* first prong for NIW eligibility, with the added comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue").

We further note that within the Petitioner's appeal, he continues to focus on the importance of the industry and occupation in general, rather than the importance of his own specific proposed endeavor. When determining national importance, the relevant question is not the importance of the overall field, industry, or profession in which the alien will work; instead, USCIS must focus on the "the specific endeavor that the alien proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889.

And finally, we do not agree with the Petitioner's statement in the appeal brief that SCOPS' denial did not meaningfully engage with the evidence in the record, as the decision addressed numerous letters he alleges they ignored, as well as government reports. The Petitioner does not identify any particular evidence that was ignored while also explaining how a lack of analysis or consideration of that material would have swung the pendulum in his favor under prong one's national importance requirements.

Because the Petitioner has not sufficiently established the national importance of his proposed endeavor as required by *Dhanasar's* first prong, he has not demonstrated eligibility for an NIW of the job offer requirement.

C. We Reserve *Dhanasar's* Remaining Second and Third Prongs

As we explained above, *Dhanasar's* second and third prongs require the Petitioner to demonstrate he is eligible for an NIW meeting additional requirements. But because the Petitioner has not established that his proposed endeavor satisfies the *Dhanasar* framework's first prong, he is not eligible for an NIW and further discussion of the second and third prongs would serve no meaningful purpose. Consequently, we will not address and we reserve the Petitioner's remaining appellate arguments. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also Matter of Yajure Hurtado*, 29 I&N Dec. 216, 229 n.8 (BIA 2025) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden.

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.