U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39027055

Date: OCT. 06, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification on behalf of the Beneficiary, a rehabilitation therapist, 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* section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

SCOPS denied the petition, concluding the Petitioner did not establish 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 the Beneficiary's 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 a beneficiary's eligibility as 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 a beneficiary's eligibility for the underlying EB-2 classification, the petitioner must then demonstrate that the beneficiary merits 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.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Beneficiary obtained a master of arts degree in art therapy from [redacted] in 2015. SCOPS determined the Beneficiary qualified for the underlying EB-2 classification as an advanced degree professional. We agree.

The Petitioner described itself as a mental health hospital treating "forensically committed patients" from the [redacted]. In the original petition, the Petitioner did not identify the Beneficiary's proposed endeavor. Rather it described the duties she performs, and would continue to perform, under its employ as a rehabilitation therapist. In response to SCOPS' request for evidence, the Petitioner included a letter by the Beneficiary stating, since April 2017, she has been developing and delivering recovery-oriented treatment services for Petitioner's patients. According to the Beneficiary's letter, her goal is to provide empathetic treatment to aid patients, reduce their recidivism, and neutralize their potentially dangerous behavior. She adds that upon completing her doctor of psychology studies she intends to enhance patient care, identifying strategies such as, mentoring new rehabilitation therapists, developing innovative programs tailored to the needs of Petitioner's patients, applying the research she performed during her studies to identify and address gaps in treatment protocols, and advocating for systemwide improvements in therapeutic services.

SCOPS determined the Petitioner established the Beneficiary's proposed endeavor had substantial merit, but had not demonstrated the national importance of her proposed endeavor under *Dhanasar's* first prong or the Beneficiary's eligibility under the second and third prongs of *Dhanasar's* framework. 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. 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* at 890. 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*.

[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 provides a brief arguing SCOPS erred in its analysis and resubmits parts of the underlying record. The Petitioner does not identify how SCOPS incorrectly analyzed the Beneficiary's eligibility. Rather, it argues, "the Beneficiary's endeavor, treating dangerous incarcerated criminals' complex trauma and specialized needs with art therapy, is highly important to the nation" as it provides "not only a major benefit to American healthcare, but also to public safety." However, in 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 specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. Here, in support of the national importance of the Beneficiary's endeavor, the Petitioner refers us to her statement and two recommendation letters, which were previously submitted below.

The Beneficiary's statement described her duties as a behavioral therapist for Petitioner and how, after completing her doctoral studies, she plans to use her degree to enhance patient care. She said she would apply her research to identify and address gaps in treatment protocols and to advocate for systemwide improvements in therapeutic services. However, she did not explain the research she is performing, how it applies to her proposed endeavor, and how its application would have national or even global implications within her field. *Id* at 890. Nor did she provide details on what systemwide improvements and innovative programs she intends to develop and advocate for and how her programs and advocacy would broadly impact patient care. Further, she asserted that she would also mentor new rehabilitation therapists. In *Dhanasar* we determined that the petitioner's teaching activities did not rise to the level of national importance because they would not impact his field more broadly. *Id.* at 893. The Beneficiary's letter does not demonstrate her proposed endeavor stands to benefit American healthcare and public safety as Petitioner asserts in its appeal brief. Nor does the letter demonstrate that the Petitioner's endeavor would sufficiently extend beyond the Petitioner and its patients to impact the behavioral therapist field or U.S. economy more broadly at a level commensurate with national importance.

The recommendation letters similarly do not demonstrate the national importance of the Beneficiary's proposed endeavor. One letter dated February 2025 is by the Beneficiary's supervisor, who was complementary of the Beneficiary's knowledge and skills. However, this type of evidentiary support relates to the second prong of the *Dhanasar* framework and shifts the focus from the proposed endeavor to the foreign national. *Id.*at 889. In our analysis of prong one, our focus is on the specific endeavor that the individual proposes to undertake. *Id.* The supervisor stated that the Beneficiary's specialization in art therapy sets her apart from her peers and she uses a unique therapeutic modality in her art therapy groups. The *Dhanasar* decision contemplates that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* at 893. However, the Petitioner has not established the extent to which her proposed endeavor's methods or strategies improve upon those already available and in use in the United States such that her proposed endeavor would have national or global implications within her field or for the United States. The second recommendation letter is also dated February 2025 and is by the Petitioner's program director, whose letter is similar in its assertions to the supervisor's letter and adds, without corroboration, that the Beneficiary's contributions will advance public health and safety by addressing recidivism, will assist in criminal justice reform, and will generate substantial economic benefits by reducing the costs of incarceration. However, without evidence supporting these assertions, the letters do not demonstrate how the Beneficiary's endeavor sufficiently extends beyond her patients to impact

the field or the U.S. economy more broadly at a level commensurate with national importance. *Id* at 890.

Consequently, the Petitioner has not shown how the Beneficiary's job duties as a rehabilitation therapist under its employ would impact therapeutic services more broadly, having national or global implications in the field. Further, the record does not contain details supporting how the Beneficiary's proposed services would have significant potential to employ U.S. workers or "other substantial positive economic effects, particularly in an economically depressed area." *See id*. at 889-90. The Petitioner has therefore not established the national importance of the Beneficiary's proposed endeavor.

As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the remaining arguments raised by the Petitioner concerning the Beneficiary's eligibility under *Dhanasar's* second and third prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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).

III. CONCLUSION

As the Petitioner has not established the Beneficiary meets the requisite first prong of *Dhanasar's* analytical framework, it consequently has not established that 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.