U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37578630

Date: OCT. 08, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a general and operations manager, 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 had not established the national importance of his proposed endeavor, among other conclusions. 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*.

Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[1] 8 C.F.R. § 204.5(k)(2).

[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.

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,[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

SCOPS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree.[3] Accordingly, the remaining issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. SCOPS determined that the Petitioner had not established that his proposed endeavor had the requisite national importance under the first prong of the *Dhanasar* framework. Based on our de novo review of the record, we agree that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* at 889. The term "endeavor" is more specific than the general occupation; an individual should offer details not only as to what the occupation normally involves, but what types of work they propose to undertake specifically within that occupation. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. We also stated in *Dhanasar* 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.

In a business plan submitted with the initial petition, the Petitioner described himself as a managing partner of [redacted] He stated that his endeavor was developing [redacted] an auto parts retail services firm headquartered in Virginia with eventual expansion into

[2] *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).

[3] The record demonstrates that the Petitioner has a bachelor's degree in economics and a professional certificate in governance and political management, as well as several years of work experience. We decline to make a specific determination regarding the Petitioner's eligibility for EB-2 classification. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

Tennessee. The firm sells and distributes a diverse range of products, including alternators, starters, alternator and starter components, sensors, and various tiers of lighting components. The Petitioner asserted that he intended to establish office locations in Small Business Administration Hub Zone areas. He projected that his endeavor will generate $31.1 million in revenue, provide 36 jobs for U.S. workers, and pay wages of $2.85 million within five years, supported by the intended initial investment and market wages for the occupations of the prospective employees in the planned geographic areas. The company would procure auto parts from Chinese manufacturers and cater to Latin American customers. The Petitioner also submitted his resume, academic documents, letters of recommendation, and industry reports and articles, in addition to articles of incorporation for [redacted]. in Virginia.

In the decision denying the petition, SCOPS concluded that while the Petitioner had not established the national importance of his proposed endeavor.[4] Specifically, SCOPS determined that the Petitioner had not submitted sufficient evidence that his work would have national implications beyond its employees and clients or would offer substantial positive economic impacts. SCOPS acknowledged the staffing and revenue projections in the business plan, but determined that these were not sufficiently probative. SCOPS similarly observed that the Petitioner's claimed ability to fill a projected occupational shortage was not a relevant consideration within the *Dhansar* framework, which focused on factors in the national interest that could outweigh "the benefits inherent in the labor certification process". *Id.* at 890-91. SCOPS also noted that the record did not contain letters from interested U.S. government or quasi-governmental entities in the United States establishing the Petitioner's expertise in the proposed endeavor such that it would advance critical technology or otherwise help maintain the United States' technological prominence.

On appeal, the Petitioner submits a brief and re-asserts his eligibility for the requested national interest waiver by a preponderance of the evidence. Upon de novo review of the record, we conclude that the record does not contain sufficient evidence analyzing the impact of Petitioner's specific proposed endeavor such that it rises to the level of national importance.

First, the Petitioner renews arguments that his endeavor will provide 37 new jobs within five years and $2.85 million in wages, which would result in concrete and substantial automotive and business development sectors. But he does not address the SCOPS determination that he had not supported these claims with detailed, probative evidence. We further note that the documentation submitted below indicated that the Petitioner already owns an auto parts business, but his tax documentation does not show that he currently employs others, nor did he provide other evidence detailing the basis for his financial projections.

Next, the Petitioner states that he "can supplement the record with additional evidence, including letters from state and local economic development agencies attesting to the importance of the proposed endeavor and its alignment with regional revitalization goals." However, he has not provided such evidence on appeal or explained why he was unable to provide it previously. The Petitioner's opportunity to supplement the record was when he filed the initial petition and later when he received

[4] SCOPS also concluded that the Petitioner had not shown that the proposed endeavor had substantial merit, that the Petitioner was well-positioned to advance the proposed endeavor nor that, on balance, it would be beneficial to the United States to waive the requirements of a job offer.

a request for evidence from SCOPS. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)); *see also* 8 C.F.R. § 103.2(b)(11) (requiring that in response to a request for evidence or notice of intent to deny, all evidence must be submitted together at one time and that submitting only some of the requested evidence will be considered a request for a decision on the record). Furthermore, a petitioner may not make material changes to a petition that has already been filed in an effort to make a deficient petition conform to USCIS requirements. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Assoc. Comm'r 1998).

Finally, the Petitioner asserts that SCOPS did not give due regard to resume, professional plan, evidence of work in the field, letters of recommendation, industry reports and articles demonstrating national importance of Petitioner's proposed endeavor. As a general matter, it is the Petitioner's burden to prove by a preponderance of evidence that he is qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id.* On appeal, the Petitioner refers to the evidence he previously submitted. Commensurate with the Petitioner's burden of proof is the responsibility for explaining the significance of proffered evidence. *Repaka v. Beers*, 993 F. Supp. 2d 1214, 1219 (S.D. Cal. 2014). A filing party should not refer to large quantities of evidence without notifying us of the specific documentation that corroborates their claims within such large quantities, as doing so places an undue burden on the appellate body to search through the documentation without the aid of the filing party's knowledge. *Toquero v. INS*, 956 F.2d 193, 196 n.4 (9th Cir. 1992). A reviewing body is not required to sift through the record to search for errors and build the appellant's argument before dismissing the appeal or the motions. *Id.*; *Spear Mktg., Inc. v. BancorpSonth Bank*, 791 F.3d 586, 599 (5th Cir. 2015); *S.E.C. v. Thomas*, 965 F.2d 825, 827 (10th Cir. 1992); *see also Harolds Stores, Inc. v. Dillard Dep't Stores, Inc.*, 82 F.3d 1533, 1540 n.3 (10th Cir. 1996) (concluding that where the evidence in the record is voluminous, it is imperative that an appellant provide specific references to record); *Uli v. Mukasey*, 533 F.3d 950, 957 (8th Cir. 2008) (citing to *Matter of D-I-M-*, 24 I&N Dec. 448, 451 (BIA 2008) and noting when a case includes voluminous background materials, it is necessary to specifically identify the material one relies on to come to their conclusion). In this case, the Petitioner has not specified how the documents he references on appeal establish his eligibility for the national interest waiver as claimed.

Therefore, the Petitioner has not sufficiently established that his proposed endeavor in the United States will have national importance under the first *Dhanasar* prong.[5] As the Petitioner has not met the requisite first prong of 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. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of his eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. at 25 (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

[5] The Petitioner also argues on appeal that SCOPS did not apply the proper standard of proof in denying his petition and instead erroneously imposed a stricter standard. However, he did not elaborate this argument or specify what improper standard SCOPS applied in his case.

The appeal will be dismissed and the petition will remain denied.

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.