U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39169143

Date: OCT. 14, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an interior designer, 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 record did not establish that the record did not establish that a waiver of the required job offer, and thus of a 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.

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

[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 balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner proposes to establish the [redacted], a nonprofit organization focused on sustainable and eco-friendly design principles. The Petitioner intends to "develop engaging content to educate the public on sustainable design principles" and utilize different platforms to "reach a wide audience, making sustainable design accessible and understandable to all." The Petitioner also intends to provide sustainable design knowledge and skills through workshops and webinars and set up "Green Design Ambassadors" as volunteers to "advocate for sustainable design in their local communities."

SCOPS determined the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. SCOPS concluded that the Petitioner's proposed endeavor met the requirements of the first *Dhanasar* prong for substantial merit and national importance.[2] However, SCOPS also concluded the Petitioner had not established she was well-positioned to advance her proposed endeavor under the second *Dhanasar* prong. In addition, SCOPS determined that, on balance, the Petitioner had not met the third *Dhanasar* prong's requirements to show it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

A. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong relating to whether a petitioner is well positioned to advance the proposed endeavor shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether petitioners are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.*

SCOPS noted that in support of this criterion, the Petitioner submitted evidence of education and training, letters of recommendation, evidence of membership in professional organizations and recognition of achievement, and a business plan. SCOPS determined the evidence "focuses heavily on past achievements" of the Petitioner and offered little evidence of "current or future efforts of the [Petitioner] to advance her proposed endeavor." In addition, the Petitioner did not submit evidence that she secured intended funding sources for her proposed endeavor, including "grants, sponsorships, and donations." SCOPS also found the business plan contained "an over generalized strategy" and

[2] Our review of the record does not support SCOPS' finding that the Petitioner has established the national importance of her proposed endeavor. However, as the Petitioner has also not demonstrated she is well-positioned to advance her endeavor, as discussed herein, we need not reach, and therefore reserve the matter of whether her proposed endeavor is of national importance under *Dhanasar*'s first prong. *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).

that the Petitioner's intent to act as chief architect and managing engineer was not supported by evidence of the Petitioner's licensure in these fields.

On appeal, in relevant part, the Petitioner asserts SCOPS's decision errs in stating a petitioner "cannot qualify for a waiver just be demonstrating a degree of expertise significantly above that ordinarily encountered in the field of expertise," as it is an application of an improper legal standard. Specifically, the Petitioner contends that as *Dhanasar* explicitly removed the comparative standard applied by the SCOPS, it does not require a petitioner to go beyond showing expertise in a particular field. In support of this contention, the Petitioner notes that prior to *Dhanasar*, petitioners were required to demonstrate they would "serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualification," but since *Dhanasar*, such "comparison against U.S. workers in the petitioner's field" is no longer required. Initially, we note that the Petitioner cites from the third prong analysis of *Dhanasar*, which requires a petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of labor certification. The Petitioner has not demonstrated it would be proper to conflate the analysis of the third prong of *Dhanasar* with that of the second prong in SCOPS' analysis of whether the Petitioner is well positioned under the second prong of the *Dhanasar* framework. In addition, the Petitioner misstates the contents of SCOPS' denial decision as SCOPS did not require the Petitioner meet a comparative standard or demonstrate a degree of expertise significantly above that ordinarily encountered in the field of expertise. Rather, SCOPS correctly found that even if a petitioner demonstrates a degree of expertise significantly above that ordinarily encountered in the field of expertise, this demonstration on its own is insufficient to demonstrate they are well positioned to advance their endeavor. *See id.* at 886, n. 3 (explaining that establishing "exceptional ability" for underlying EB-2 classification is not sufficient to demonstrate eligibility for a national interest waiver under section 203(b)(2)(B)(i) of the Act). As stated above, in considering this criterion, non-exhaustive factors include not just education and skill, but also knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.*

The Petitioner asserts SCOPS erred in finding the record did not contain evidence of the Petitioner's licensure to support her intent to act as chief architect and managing engineer. The Petitioner submits an excerpt from the Occupational Outlook Handbook from the U.S. Department of Labor's Bureau of Labor Statistics in asserting that an architectural or engineering manager does not require a license. However, this excerpt indicates that such managers typically require at least a bachelor's degree in engineering or architecture; considerable work experience as an architect or engineer; and that they may advance from other occupations that require licensure, as all states require licensure of architects. The record does not contain evidence that the Petitioner has the appropriate licensure as an architect. Indeed, contrary to previous assertions in the record, the Petitioner claims that she is neither an engineer nor architect, as she is an interior designer, which does not require licensure in the state of Georgia. The Petitioner does not address how she possesses the education and skills to be well-positioned to serve as a chief architect and managing engineer of [redacted] if she identifies herself as neither an engineer nor architect. On appeal, the Petitioner also does not address SCOPS' findings that the record contains a paucity of evidence related to the Petitioner's current and future efforts to advance her proposed endeavor, the securing of intended funding, or details of her business plan strategy. We note that submitted letters of support and awards attest to the Petitioner's success in the

application of sustainable design techniques in her own design work, her leadership of a design team, and her facilitation of focus group discussion related to sustainable materials and energy-efficient technologies. However, the record does not similarly demonstrate the Petitioner's prior success as it relates to stated aims of her proposed endeavor, namely: development of sustainable design content, dissemination of this content through various platforms including webinars and workshops, securing of funding for a nonprofit organization, and setting up volunteer advocates for sustainable design advocacy. Overall, we concur with SCOPS that the Petitioner has not established that she is well-positioned to advance her proposed endeavor.

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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).

III. CONCLUSION

As the Petitioner has not met the requisite second prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility 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.