U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39543201

Date: OCT. 14, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a lawyer, 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).

SCOPS denied the petition. SCOPS determined that the Petitioner qualifies as a member of the professions holding an advanced degree. However, SCOPS concluded that the record does not establish that a waiver of the job offer requirement, 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;

[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).

- The individual is well-positioned to advance the proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree. However, for the reasons discussed below, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong. *See id.*

The Petitioner described the endeavor as a plan "to counsel and advise private and public companies, individuals, and institutions on best law practices for safeguarding financial stability when dealing with digital assets." More specifically, the Petitioner indicated that he would pursue his endeavor "through a continuation of my established consulting firm . . . and/or through employment at U.S. [law firms] that are eager to hire/re-hire me and have provided support letters." He stated that his endeavor "will contribute to a safer, more transparent, and efficient digital asset ecosystem in the United States."

The Petitioner also submitted, in relevant part, letters of support; an opinion letter; and publications providing generalized information regarding the fields of information technology, finance, and law.

SCOPS determined that the Petitioner "has established that his proposed endeavor has substantial merit," as required in part by the first *Dhanasar* prong, and that he "is well-positioned to advance the proposed endeavor," as required by the second *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. However, SCOPS observed, "The record does not show how the [P]etitioner's techniques, methodologies, or methods are sufficiently innovative or distinct from those in similar businesses, to represent an improvement in the field with potential to have a broad impact on the field," referencing the first *Dhanasar* prong. *See id.* SCOPS also noted, "the [P]etitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects," again referencing the first *Dhanasar* prong. Based on those issues, SCOPS concluded that the record does not establish that the proposed endeavor will have national importance, as required by the first *Dhanasar* prong. SCOPS further determined that the record does not satisfy the third *Dhanasar* prong. *See id.*

Because we determine that the record does not establish whether the proposed endeavor may have national importance, which is dispositive, we reserve our opinion regarding whether the record satisfies the second and third *Dhanasar* 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).

On appeal, the Petitioner asserts that SCOPS conflated its analysis of the second *Dhanasar* prong, whether an individual is well-positioned to advance the proposed endeavor, with its analysis of national importance as contemplated by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. Similarly, the Petitioner states on appeal that SCOPS conflated criteria for "exceptional ability pursuant to 8 CFR 204.5(k)(3)(ii)(F)" with its analysis of national importance.

The Petitioner further asserts that SCOPS' national importance analysis "only offers general conclusory statements regarding national importance without addressing any of the evidence." The Petitioner reasserts that his personal statement; the opinion letter; letters of support; and publications providing generalized information regarding the fields of information technology, finance, and law, noted above establish that the proposed endeavor has national importance. The Petitioner also asserts, "Evidence that Petitioner's [sic] endeavor aligns with, is supported by, and is directly related to the advancement of Government initiatives and policies is highly probative in assessing the national importance of one's endeavor," referencing unpublished decisions we issued in 2022, 2023, and 2024.

In determining national importance under the first *Dhanasar* prong, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on "the specific endeavor that the [individual] proposes to undertake" and "we consider its potential prospective impact," looking for "broader implications." *Matter of Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or those with "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area." *Matter of Dhanasar*, 26 I&N Dec. at 889-90.

We first address the Petitioner's assertions on appeal regarding SCOPS' conflation of criteria. We acknowledge that SCOPS' analysis under the section heading of whether the proposed endeavor may have national importance contains language that pertains to other *Dhanasar* prongs and to second preference eligibility as an individual of exceptional ability. However, SCOPS' analysis contains this language in addition to—not instead of—an analysis of whether the record establishes the proposed endeavor may have national importance. Moreover, as noted above, SCOPS determined that the Petitioner qualifies for second-preference classification and that the record satisfies the second *Dhanasar* prong. Therefore, SCOPS' extraneous discussion of those issues was not ultimately unfavorable to the Petitioner. Considering SCOPS' decision in its entirety, this claimed error was, at most, harmless. *See generally Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing cases regarding harmless or scrivener's errors).

Next, the publications in the record providing generalized information regarding the fields of information technology, finance, and law do not address the Petitioner, the specific endeavor he proposes to undertake, and its broader implications.[2] For example, the publications do not inform how the specific endeavor the Petitioner proposes to undertake may have national or even global implications within the field of information technology, finance, law, or any other particular field, such as those resulting from certain improved manufacturing processes or medical advances. *See id.* As another example, the publications do not inform how the specific endeavor the Petitioner proposes to undertake may have significant potential to employ U.S. workers or have other substantial positive economic effects. *See id.* Because the publications do not address the Petitioner, the specific endeavor he proposes to undertake, and its broader implications, they bear minimal probative value for determining whether the proposed endeavor may have national importance as required by the first *Dhanasar* prong, and we need not address them further.

[2] Although we do not enumerate each item of evidence in the record for brevity, we have reviewed the record in its entirety.

Next, although the Petitioner refers to several of our non-precedent decisions concerning topics such as the importance of quantum physics research, semiconductor development, and organic chemistry, these decisions were not published as precedents and, therefore, they do not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Moreover, the Petitioner does not establish the relevance of our analysis of particular evidence in other records of proceedings regarding quantum physics research, semiconductor development, and organic chemistry to his proposed endeavor of providing legal services pertaining to finance, beyond the proposition that some records establish that the respective proposed endeavors described therein have national importance. Therefore, the non-precedent decisions the Petitioner references on appeal bear minimal probative value in this case.

We recognize the importance of progress in science, technology, engineering, and mathematics (STEM) fields and the essential role of persons with advanced STEM degrees in fostering this progress, especially in focused critical and emerging technologies or other STEM areas important to U.S. competitiveness or national security. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual. However, as in all cases, a proposed endeavor implicating a STEM field must demonstrate both substantial merit and national importance, such as by having national or even global implications within a particular field, beyond merely being in a STEM field. *See generally id.*; *see also Matter of Dhanasar*, 26 I&N Dec. at 889-90. Thus, even to the extent that the Petitioner's proposed endeavor implicates STEM fields by virtue of its connection to information technology, the record must nevertheless establish that the proposed endeavor will have national importance, such as by having national or even global implications within the field of information technology, finance, law, or any other particular field; significant potential to employ U.S. workers; have substantial positive economic effects; or other indicia of national importance. *See generally* 6 *USCIS Policy Manual* F.5(D)(4); *see also Matter of Dhanasar*, 26 I&N Dec. at 889-90.

Next, the record contains an opinion letter written by an associate professor of finance at Adelphi University, which the Petitioner asserts establishes the proposed endeavor has national importance. As a matter of discretion, we may use opinion statements submitted by a petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we may give an opinion 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.*; *see also* Fed. R. Evid. 702 (providing that an expert opinion may "help the trier of fact to understand the evidence or to determine a fact in issue," not that it is evidence of fact itself).

The opinion letter repeats information already in the record, such as the Petitioner's description of the proposed endeavor and from publications that provide generalized information regarding the fields of information technology, finance, and law. The letter also provides conclusory statements about that generalized information. For example, the letter states, "[The Petitioner's] endeavor supports areas of national importance because his expertise in fintech law, cryptocurrency, and blockchain helps secure the U.S. financial system against cyber-crime, ensures compliance with evolving regulations, and fosters innovation." However, the letter does not elaborate on how the specific endeavor the Petitioner proposes to undertake will provide security against cybercrime or ensure compliance with regulations not already provided by other lawyers providing legal services in connection with finance that may have national or even global implications within a particular field, nor does it elaborate on what innovations the specific endeavor the Petitioner proposes to undertake may foster. In general, the

opinion letter conflates factors for determining whether a proposed endeavor may have substantial merit with its conclusory statements that the proposed endeavor has national importance, which are distinct elements of the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. As noted above, determining national importance under the first *Dhanasar* prong focuses on "the specific endeavor that the [individual] proposes to undertake," not the importance of the industry, field, or profession in which an individual will work. *Id.* Based on those issues, the opinion letter does not assist us in understanding a fact in issue regarding whether the specific endeavor the Petitioner proposes to undertake will have national or even global implications within a particular field, significant potential to employ U.S. workers, substantial positive economic effects, or other indicia of national importance, and it bears minimal probative value. *See id.*; *see also Matter of Caron Int'l, Inc.*, 19 I&N Dec. at 795; Fed. R. Evid. 702.

Similar to the opinion letter, the letters of support referenced on appeal summarize information already in the record regarding the Petitioner and his qualifications, and about the importance of the industry, field, or profession in which the Petitioner will work. However, the letters of support do not inform how the specific endeavor the Petitioner proposes to undertake may have national importance. For example, the letters of support do not establish how the specific endeavor the Petitioner proposes to undertake may have national or even global implications within the field of information technology, finance, law, or any other particular field, such as those resulting from certain improved manufacturing processes. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. As another example, the letters of support do not address how the specific endeavor the Petitioner proposes to undertake may have significant potential to employ U.S. workers, or other substantial positive economic effects. *See id.* Because the letters of support do not inform how the specific endeavor the Petitioner proposes to undertake may have national importance, they bear minimal probative value.

The record establishes that the Petitioner's proposed endeavor may benefit either himself and his legal services consulting firm—if he chooses to continue operating it—or any other employer who may hire or rehire him, in addition to any business partners, customers, or clients who may receive his legal or consulting services. However, the record does not establish how the specific endeavor the Petitioner proposes to undertake may have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong. *See id.* For example, the record does not establish how the specific endeavor the Petitioner proposes to undertake may have national or even global implications within the field of information technology, finance, law, or any other particular field. *See id.* Rather, as noted above, the record indicates that the proposed endeavor would provide legal or consulting services pertaining to finance similar to those already provided by other lawyers and consultants. As another example, the Petitioner does not assert, and the record does not support the conclusion, that the specific endeavor he proposes to undertake may have significant potential to employ U.S. workers. *See id.* Similarly, the record does not establish how the specific endeavor the Petitioner proposes to undertake may otherwise have substantial positive economic effects. *See id.*

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established 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.