U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39879742

Date: OCT. 16, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an immigration attorney, 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 qualified for classification as a member of the professions holding an advanced degree, but that she had not established that 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 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 their 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. The sole issue to be determined 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.

With respect to her proposed endeavor, the Petitioner indicated that her "proposed endeavor is to continue using my comprehensive understanding of immigration law to guide qualified foreign nationals towards obtaining the necessary visas for legal entry and residency in the U.S." She stated: "By providing personalized support, navigating complex legal requirements for national interest waivers and individuals with extraordinary ability, and fostering strategic collaborations, I aim to facilitate their seamless transition into the American professional landscape." [2]

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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.* SCOPS determined the Petitioner's proposed endeavor has substantial merit. We agree.

SCOPS concluded, however, that the Petitioner did not establish the national importance of her proposed endeavor. 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. SCOPS determined the Petitioner did not establish the potential prospective impact of her proposed work.[3]

---

[2] At the time of filing, the Petitioner was working for [redacted] as an immigration attorney. The record includes an April 2024 letter from the Petitioner's employer stating that her duties and responsibilities in this position include providing immigration legal solutions to clients for their Form I-140 forms, giving legal advice to clients and responding to visa-related queries on the Case Management System (CMS), drafting responses for the clients, editing and approving paralegals' drafts on the CMS, conducting legal research on case-specific Form I-140 and visa-related issues, discussing complicated Form I-140 issues with internal and external attorneys, and providing legal solutions on Form I-140 or visa related issues. As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for her to have a job offer from a specific U.S. employer. However, we will consider information about her position to illustrate the capacity in which she intends to work in order to determine whether the proposed endeavor meets the requirements of the *Dhanasar* framework.

[3] For example, SCOPS' decision indicated the Petitioner had not shown that her legal "work or services would impact the immigration field and/or a particular industry more broadly, as opposed to being limited to the clients she serves."

On appeal, the Petitioner argues that SCOPS' decision disregarded documentation demonstrating the national importance of her proposed endeavor. The Petitioner submitted articles on immigrants' right to legal representation and the benefits of publicly funding their legal services, attracting more immigrant talent to help the U.S. economy and American companies compete with China, immigrant entrepreneurs' contribution to U.S. billion-dollar startup companies, U.S. immigration policy and demand for high-skilled workers, factors contributing to our country's labor shortage, and immigration lawyer shortages in Houston.[4] The record also includes information about White House actions to promote safe and secure development and use of artificial intelligence, to encourage STEM (science, technology, engineering, and mathematics) students and scholars from abroad, and to facilitate visas for entrepreneurs and STEM professionals. The Petitioner claims that these articles support the national importance of her proposed endeavor. The determination of national importance does not focus on the importance of one's field or industry in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *See Dhanasar* at 889. Here, none of the aforementioned articles mention the Petitioner or her legal projects, or otherwise speak to the potential prospective impact of her specific proposed endeavor.

The Petitioner further indicates that SCOPS' decision did not properly review the letters of support from colleagues in her field. The Petitioner provided letters of support from Y-W-, C-C-, and A-T- discussing her knowledge of immigration law, capability as a lawyer, and legal experience. In addition, the Petitioner presented messages either inquiring about her current employer or recruiting her for job opportunities. The Petitioner's skills, knowledge, and prior work in her field, as well as interest from potential employers or others in her field, relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar's* first prong.

Y-W- contends that the Petitioner's proposed endeavor is of national importance because it "aligns directly with the U.S Government's priorities of attracting and retaining top global talent to strengthen our nation's economic and technological leadership." Likewise, C-C- asserts that the Petitioner's undertaking fosters "a legal environment where global talent can thrive, directly supporting critical sectors such as technology, healthcare, and business in the U.S." and that her "work is underscored by the fact that immigrants have long been a driving force behind U.S. innovation and economic growth." In addition, A-T- states: "By assisting highly skilled professionals, including scientists like me, engineers, researchers, and other professions, [the Petitioner] plays a vital role in ensuring that the U.S. remains at the forefront of research and development." Again, the issue here is not the national importance of the field, industry, or profession in which the individual will work; rather we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. The letters from Y-W-, C-C-, and A-T- do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work offers

[4] With respect to immigration lawyer shortages, we are not persuaded by the argument that the Petitioner's proposed endeavor has national importance due to the shortage of workers in her field. Here, the Petitioner has not established that her proposed endeavor stands to impact or significantly reduce the claimed national shortage. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

broader implications in her field or substantial positive economic effects for our nation that rise to the level of national importance.[5]

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of her work. While the Petitioner's statements reflect her intention to provide legal services to her clients, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id*. at 893. Here, we conclude the Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her clientele to impact her industry, the field of immigration law, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not shown that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to her future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's legal services would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890.

The Petitioner has not established that her 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.

B. The Remaining *Dhanasar* Prongs

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. As this issue is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of her eligibility under the second and third prongs of the *Dhanasar* framework. *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

---

[5] Here, the Petitioner's letters of support do not demonstrate that her proposed endeavor would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims.

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.