U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39460457

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 urban and regional planning researcher, 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 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 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*.

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

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

II. ANALYSIS

The Petitioner is an urban and regional planning researcher whose proposed endeavor is to enhance the safety and security of public transportation across the United States. SCOPS determined that the Petitioner established eligibility for the EB-2 classification as a member of the professions holding an advanced degree. However, SCOPS ultimately concluded that the Petitioner did not establish that her proposed endeavor was of national importance or that on balance, waiving the job offer requirement would benefit the United States. On appeal, the Petitioner contends that SCOPS misapplied *Matter of Dhanasar* in its determination that the record does not establish the national importance of her proposed endeavor. Upon review, we conclude the record does not establish the Petitioner's proposed endeavor rises to the level of national importance and therefore she is not eligible for a national interest waiver as a matter of discretion.

A. EB-2 Classification

The Petitioner is an urban and regional planning researcher. The record contains evidence of a master's degree in community and regional planning from [redacted]. SCOPS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree and we agree.

B. National Interest Wavier

1. Substantial Merit

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Petitioner states that her proposed endeavor is to enhance the safety and security of public transportation across the United States through the integration of advanced technologies to create a real-time monitoring and response system. The Petitioner proposes to provide a comprehensive assessment of the existing public transportation systems in cities and states across the United States, to evaluate their current security measures, identify vulnerabilities, and to assist in implementing smart surveillance systems. The record contains industry reports and articles on the current state of public transportation in the United States and U.S. government initiatives to support the industry. We conclude that the proposed endeavor has substantial merit.

[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).

2. National Importance

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* states that an 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.* The Petitioner contends that SCOPS improperly linked her proposed endeavor to her prior employment and that her proposed endeavor has national or global implications as it provides "field-wide impact through federally aligned innovation, expert-endorsed methodology, and demonstrated applicability beyond its pilot environment." We acknowledge that the record does not demonstrate the Petitioner's proposed endeavor is connected to her previous employment. Nevertheless, we conclude that the record does not establish the broader implications of her proposed endeavor on the public transportation industry as *Dhanasar* requires.

The Petitioner highlights the expert opinion letters, industry reports, and various articles in the record as evidence of the broader implications of her proposed endeavor. In a review of the expert opinion letters, the authors describe the proposed endeavor's impact with general assertions and do not include sufficient supporting evidence in order for us to determine her proposed endeavor has national or global implications within her field. For example, one author states that the Petitioner's proposed endeavor is of "critical importance to national infrastructure, public safety, and economic vitality;" but does not provide information on how her proposed endeavor is critically important or what specific global or national implications her proposed endeavor will have to national infrastructure, public safety, or economic vitality. Further, a petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. Here, the Petitioner does not provide additional evidence to support the author's claims. In another letter, the author states that the Petitioner's proposed endeavor "introduces innovative approaches by combining urban planning principles with cutting-edge technologies." However, the record does not contain additional evidence to establish that her plan is innovative in her field comparable to the "certain improved manufacturing processes or medical advances" *Dhanasar* describes. *Matter of Dhanasar*, 26 I&N Dec. at 889. In fact, the Petitioner provides reports in the record to demonstrate that crime analytic tools have already been implemented to positively impact public transit in places like [redacted] and [redacted]. Therefore, the record does not establish that the Petitioner's proposed endeavor is novel in a way that would result in national or global implications within the field.

Although the letters speak highly of the Petitioner and her work, they do not provide specific information on how her proposed endeavor will have broader implications in the field. In addition, record does not contain sufficient evidence to establish how her plans will impact the public transportation industry more broadly in order to establish the national or global implications of her proposed endeavor. 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. Without additional evidence of the broader implication of the Petitioner's proposed endeavor, the record does not establish that the Petitioner's proposed endeavor stands to sufficiently extend beyond her potential clients to impact the public transportation industry more broadly at a level commensurate with national importance.

Dhanasar states that an 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. *Matter of Dhanasar*, 26 I&N Dec. at 890. The Petitioner contends that her proposed endeavor will employ U.S. workers and contribute to job creation. She provides a statistical report from the American Public Transportation Association which states that every $1 billion invested in public transportation supports approximately 50,000 jobs. She further asserts, "[t]hese are not abstract projections; they reflect measurable workforce impact across industries, including construction, engineering, cybersecurity, transportation management, and public safety." However, the record does not provide information on how much money her proposed endeavor will invest in public transportation in order to use this formula to estimate how many jobs her proposed endeavor will create. Additionally, the Petitioner does not provide information on what kinds of jobs her proposed endeavor will create in the listed industries. One expert opinion letter states that "the implementation of advanced safety measures will likely generate jobs in security, technology, and transportation sectors," while another asserts that "implementation of advanced safety measures across public transit systems will create jobs, particularly in sectors related to technology installation, infrastructure upgrades, and security management." Neither letter provides information on how her specific proposed endeavor will create jobs in these fields; but generally, that "advanced safety measures" create jobs in these fields. Further, the record does not contain sufficient supporting evidence in order to establish what kinds of jobs the Petitioner's specific proposed endeavor will create in these fields or how many jobs the Petitioner's proposed endeavor will create in order for us to determine if her proposed endeavor stands to have substantial positive economic effects. As stated above, a petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. Here, the record does not contain sufficient detail or supporting evidence to establish a level of job creation attributable to her proposed endeavor that rises to the level of national importance.

Further, the Petitioner contends her proposed endeavor will benefit economically depressed areas. She states that her proposed endeavor will ensure safter and more reliable public transit for low-income communities which will expand their economic opportunities and job accessibility. The Petitioner highlights an expert opinion letter in the record which states that her proposed endeavor will "support increased ridership, particularly in economically depressed areas where reliance on public transportation is high. This directly contributes to economic growth by improving access to jobs, boosting local economies, and supporting businesses that depend on safe transit systems." Here too, the record lacks specificity regarding how the Petitioner's proposed endeavor will have this impact and relevant, probative, and credible evidence to support this assertion. *Id.* For example, the Petitioner does not identify the locations where she will provide her services in order for us to determine that her work will impact economically depressed areas. Additionally, the record contains general information about how there are economic benefits to improvements in public transportation; however, the evidence in the record does not further substantiate the assertion that her proposed endeavor will have substantial positive economic effects in economically depressed areas. Therefore, the Petitioner has not established her proposed endeavor will have substantial positive economic effects in an economically depressed area.

The Petitioner contends that her proposed endeavor aligns with federal U.S. government initiatives. Although the Petitioner's work may be within an important field; the Petitioner must still establish her

specific proposed endeavor has national importance as it is presented in the *Dhanasar* framework. While her work may be in the public transportation field, that alone does not equate to national importance. The proposed endeavor itself must still meet the level of prospective impact set forth in *Dhanasar*. In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. We recognize the value and importance of the industry and that the Petitioner provides evidence of challenges in the industry; however, her work in an important field is insufficient to establish the national importance of the proposed endeavor. Here, the Petitioner improperly relies upon the importance of the industry to establish the national importance of her proposed endeavor. Although this evidence provides background information on the industry itself, and government efforts to support the industry; without sufficient documentary evidence of the specific proposed endeavor's broader impact on the industry, the Petitioner's proposed endeavor does not meet the national importance element of the first prong of the *Dhanasar* framework.

Finally, the Petitioner asserts that SCOPS used inconsistent pronouns in their decision and that it "rais[es] concerns about the individualized nature of the adjudication." Upon review, we conclude this claimed error is, 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). While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, the remaining *Dhanasar* 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).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence 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.