U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40082935

Date: OCT. 27, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 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 that he or she is 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, he or she must then demonstrate that he or she merits 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 his or her 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

SCOPS observed the evidence in the record supported the Petitioner's eligibility for EB-2 classification as an individual who is a member of the professions holding an advanced degree. But SCOPS ultimately concluded that the Petitioner's substantially meritorious proposed endeavor did not rise to a level of national importance as required by the first prong of *Dhanasar*. SCOPS also determined that the Petitioner was not well positioned to advance their proposed endeavor. And SCOPS concluded that on balance of applicable factors, a waiver of the requirement of a job offer, and thus a labor certification, would not be beneficial to the national interest.

On appeal, the Petitioner contends that SCOPS erroneously denied the petition under the preponderance of the evidence standard. The Petitioner states SCOPS imposed a purportedly stricter standard and erroneously applied the law and applicable precedent decisions. Specifically, the Petitioner assigned error alleging that SCOPS "dismissed without any meaningful engagement" its economic impact analysis, applied analysis and rationale from the vacated precedent *Matter of New York State Dep't of Transp.* ("*NYSDOT*"), 22 I&N Dec. 215 (Acting Assoc. Comm'r 1998), incorrectly characterized his endeavor as entrepreneurial, and conflated the prongs contained in the *Dhanasar* analytical framework amongst other claims specific to evidence he submitted in the form of an economic impact analysis and a business plan. The Petitioner avers on appeal that the evidence he submitted in the record prior to and at appeal demonstrates that he meets all three prongs under the *Dhanasar* framework and merits a discretionary waiver of the job offer, and thus the labor certification, in the national interest.

We conclude that the Petitioner does not merit a favorable exercise of discretion in the national interest to waive the mandatory job offer, and thus the labor certification requirement. In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated 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. The broader implications of the proposed endeavor, national and/or international, can inform us of the proposed endeavor's national importance. That is not to say that the implications are viewed solely through a geographical lens. Broader implications can reach beyond a particular proposed endeavor's geographical locus and focus. The relevant inquiry is whether the broader implications apply beyond just narrowly conferring the proposed endeavor's benefit.

The Petitioner's proposed endeavor is contained within the energy sector. Specifically, the Petitioner describes the purported growing prominence of decentralized renewable energy systems. A decentralized renewable energy system is a localized energy generation and distribution setup that relies on nodes of renewable energy sources. Examples of decentralized energy systems nodes are solar panels, wind turbines, micro-hydro systems, or geothermal systems installed on a residential or commercial property. Decentralized renewable energy systems can exist off the centralized energy

grid or in microgrids coordinating with the centralized grid. The Petitioner proposed to endeavor to "create an innovative defense system specifically tailored for off-grid and microgrid environments without relying on a central server." The "innovative defense system" would be "develop[ed] and implement[ed] [using] a novel peer-to-peer (P2P) security model that ensures direct communication between decentralized, clean energy systems, alongside a self-optimizing, dynamic mesh network that allows communications pathways to be self-healing and adaptable." The Petitioner further described his endeavor would "scale in off-grid and micro-grid environments by adding new nodes" and "incorporate a predicative model to analyze communication patters across the microgrid in real-time, establishing a baseline for network behavior." The proposed endeavor's objective was to "influence the renewable energy system sector by developing an innovative approach to the defense of energy sustainability systems" for the increased security of national infrastructure.

The Petitioner identified "the creation of a larger and more efficient energy distribution network," "impact on the security of the national infrastructure," alignment with "national priorities in energy independence and sustainability," enhancement of social welfare, and broader benefits in the form of the economic impact stemming from a purported $21,200,000 avoidance in cyber incident costs over five years. The Petitioner elaborated that he would conduct his proposed endeavor through his own self-employment or entrepreneurial venture wherein he would "engage in activities such as research, technology development, and strategic implementation."

But the record did not adequately demonstrate that the benefits the Petitioner identified to purportedly flow from his proposed endeavor, even if realized, would impact his field beyond the decentralized renewable energy systems that chose to implement the endeavor in their individual off-grid or microgrid environments. Or in other words, the record did not sufficiently describe how the Petitioner's implementation of an "innovative defense system" that is "develop[ed] and implement[ed] [using] a novel peer-to-peer (P2P) security model that ensures direct communication between decentralized, clean energy systems, alongside a self-optimizing, dynamic mesh network that allows communications pathways to be self-healing and adaptable" would permeate to impact matters beyond the few decentralized renewable energy systems that engaged the Petitioner for his services. Moreover, SCOPS noted the importance of the energy sector in the U.S. economy when it correctly concluded the Petitioner's proposed endeavor was substantially meritorious. The reports and whitepapers the Petitioner submitted, whilst sufficient to demonstrate the proposed endeavor's merit, did not adequately describe the national importance of the Petitioner's proposed endeavor. In determining national importance under *Dhanasar*, the relevant question is not the importance of the field, industry, or profession in which the individual will work, how successful the proposed endeavor could be, how much market share it could claim, or the level of market interest in adoption or licensing; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. The impact of a proposed endeavor on a geographical "national or regional level" is not required if a petitioner demonstrates broader implications rising to a level of national importance. But the reports and whitepapers the Petitioner submitted were general in nature. The reports and whitepapers did not adequately describe how the objectives or benefits the Petitioner credited to his proposed endeavor fit into the ostensibly nationally important matters the reports and whitepapers were commenting on whereby it could be determined that the Petitioner's endeavor had national, or even global, impact on the field or broader implications rising to a level of national importance.

And, to the extent the Petitioner asserts that his proposed endeavor's operation and function amongst "decentralized renewable energy resources" would bring positive economic effects, the evidence in the record does not materially, relevantly, or probatively demonstrate those effects rising to a level implicating matters of national importance. The Petitioner emphasizes the contents of an economic impact analysis report on appeal as supporting the national importance of his proposed endeavor. Specifically, as stated above, the Petitioner highlights a purported $21,200,000 avoidance in cyber incident costs over five years at the lowest contemplated "adoption level" of his proposed endeavor.

At the outset, we note an initial flawed assumption in the preparation of the economic impact analysis. The economic impact analysis' executive summary states the "primary objective of the [proposed endeavor] is to enhance the integration of renewable energy into the electric grid." But the Petitioner stated the proposed endeavor's objective was to "influence the renewable energy system sector by developing an innovative approach to the defense of energy sustainability systems" for the increased security of national infrastructure. So, it is unclear how this divergence from the Petitioner's stated objectives for his proposed endeavor as described in the economic impact analysis' executive summary impacts the stated conclusions.

But, even setting aside the above-described divergence, we would still conclude that the economic impact analysis does not demonstrate how the proposed endeavor would impact decentralized renewable energy systems in a nationally important manner through potential prospective impact nationally or even globally or through broader implications such as positive economic effects rising to a level of national importance. The Petitioner states that the conclusions in the economic impact analysis "are grounded in well established methodologies: Monte Carlo simulation, regression modeling, sensitivity testing, and Bayesian inference" whilst "draw[ing] on credible data sources including IBM's annual cost of a data breach reports, Department of Energy publications, and academic cybersecurity studies." According to the Petitioner, the economic impact analysis projects not only the purported $21,200,000 avoidance in cyber incident costs over five years at the lowest contemplated "adoption level" of its proposed endeavor, but the possibility for "up to $212 million in avoided cyber incident costs at modest adoption rates of the petitioner's decentralized cybersecurity platform for microgrids, with a statistically derived mean of $81 million and a 90% confidence interval ranging from $13 million to $262 million." But the record does not adequately demonstrate how realization of $21,200,000 in cyber incident cost avoidance over five years would impact the field nationally, or even globally, or have broader implications rising to a level of national importance. And the evidence in the record does not provide adequate evidence to support that avoided cyber incident costs for a specific subset of decentralized renewable energy systems taking advantage of the Petitioner's proposed endeavor would have national, or even global, impact on the field or broader implications rising to a level of national importance.

And the Petitioner's claim his proposed endeavor has alignment with federal initiatives related to clean energy and secure infrastructure is not dispositive to the question of its national importance. As correctly stated by the Petitioner, simply proposing an endeavor adjacent to an area of substantial merit or special concern to the United States does not render such an endeavor nationally important as a default. But it can be a relevant factor in the totality of circumstances if it supports the identified national, or even global impact, of the proposed endeavor or any indicated broader implications rising to a level of national importance. Here, as stated above, the Petitioner's reports and whitepapers do not sufficiently support the proposed endeavor's claims that the potential for between $21,200,000

and $262,000,000 in avoided cyber incident costs over five years impacts the field nationally or globally or has broader implications elevating the proposed endeavor to a level of national importance.

The Petitioner objects to an analysis of his business plan under the first prong of the *Dhanasar* analytical framework. But the Petitioner also claims the economic impact of his endeavor is nationally important. We 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. The Petitioner's business plan described that his endeavor would "create up to twenty full-time job opportunities" in the first five years of its operations. The payroll would increase ten-fold over the five-year period from $107,375 in year one to $1,700,505 in year five generating year on year increases in tax payment amounting to cumulatively $2,100,000 in year five. So, the business plan contains information and assertions that relate to an analysis of the proposed endeavor's national importance because it contains representations of its positive economic effects. The Petitioner anticipated a hiring spree increasing the endeavor's head count over five years and substantially increasing expenditure on salary. But it is not clear from the record how this job creation for the proposed endeavor itself would have a substantial prospective positive economic effect commensurate with national importance. These aspirations do not demonstrate the national importance of the endeavor because the record does not support the benefits of the creation of 20 jobs or increases in salary or tax expenditures flowing forth from the endeavor as described by the Petitioner would extend beyond the endeavor itself to have an impact on a level of national importance. The positive economic effects the Petitioner identified were also not supported by sufficient probative, material, or relevant evidence showing how the endeavor's hiring plan would influence any area's unemployment rate or how the endeavor's operations and revenue rose to a level of national importance. And the record does not adequately establish how increasing tax payments over the course of five years of operations have national impact or broader implications ascending to a level of national importance.

The Petitioner has not met the first prong of the *Dhanasar* analytical framework. So, we find that he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. And we need not reach a decision on whether, as a matter of discretion, the Petitioner is eligible for or otherwise merits a national interest waiver under the remaining prongs of the *Dhanasar* analytical framework. Accordingly, we reserve these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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 alternate issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

A petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n.3 (BIA 1998); *also see* the definition of burden of proof from *Black's Law Dictionary* (11th ed. 2019) (reflecting the burden of proof includes both the burden of production and the burden of persuasion). The Petitioner has not met his burden of proof with persuasive material, relevant, and probative evidence which by a preponderance demonstrates the national importance of his proposed endeavor. So, his appeal must be dismissed.

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.