U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39558645

Date: OCT. 31, 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 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 electrical and electronics engineer whose proposed endeavor is to work in this field in the United States. SCOPS determined that the Petitioner established his 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 eligibility for a national interest waiver. On appeal, the Petitioner contends that SCOPS failed to properly consider the evidence in the record. Upon review, we conclude the record does not establish the Petitioner's proposed endeavor is of national importance and therefore he is not eligible for a national interest waiver as a matter of discretion.

A. EB-2 Classification

As stated above, the Petitioner is an electrical and electronics engineer. The record contains evidence of a master's degree in software design and management 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 his proposed endeavor is to open a manufacturing company to produce low and medium voltage electrical panel boards which he contends are critical to grid resilience, clean energy integration, and infrastructure modernization. The record contains industry reports and articles on the electrical engineering and power and utilities industries; as well as U.S. government initiatives to support these industries. 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 his proposed endeavor is not limited to "tailored services" as SCOPS determined, but it will have broad economic, policy, and infrastructure impact. The Petitioner asserts that his proposed endeavor will reduce dependence on foreign electrical components, enhance U.S. energy security, and support crucial industries such as data centers, hospitals, public transportation, power generation plants, power transmission and distribution systems, and federal projects. However, 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 support the Petitioner's assertions that his proposed endeavor will have national or global implications within the field.

The Petitioner's business plan states that the Petitioner's strategy will be to "operate as a business-to-business (B2B) enterprise, focusing on made to order production for large and mid-sized companies in the U.S." and that the company "will primarily serve construction and engineering firms, industrial and manufacturing facilities, and the energy generation and distribution sectors." This plan demonstrates that the Petitioner's proposed endeavor will provide "made to order" products that will impact his customers but does not demonstrate a broader impact on the industry. The Petitioner highlights letters in the record as evidence of his proposed endeavor's broader impact and national importance. While the letters in the record describe the Petitioner's work experience as well as the impact of his prior work, they do not discuss the broader impact or national importance of his proposed endeavor. For example, one author that previously worked with the Petitioner states that his work has national importance and his "contributions are crucial in addressing some of the most pressing challenges in the energy sector, including grid stability and the integration of variable renewable sources." However, the letter focuses on the Petitioner's previous work and not the Petitioner's proposed endeavor. Another author details working with the Petitioner and states that his "work extends far beyond individual projects. Power plant projects are among the most complex and technically demanding endeavors." The author speaks of the projects they previously worked on with the Petitioner but does not specifically address his proposed endeavor and its prospective impact. While past experience can be persuasive for prong two analysis, whether the Petitioner is well-positioned to advance the proposed endeavor, it does not sufficiently establish claim of national importance.

The Petitioner contends that his proposed endeavor aligns with U.S. government initiatives such as the Bipartisan Infrastructure Law, the Inflation Reduction Act, and federal smart grid and energy security goals. In addition, the record contains articles that demonstrate the impact of electrical engineering and a rising demand in the field. Although the Petitioner's work may be within an important 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 a rising demand for this type of work. However, his 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 further establish the national importance of his proposed endeavor. Without sufficient documentary evidence of the specific proposed endeavor's broader impact in the industry, the Petitioner's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

The Petitioner estimates that his proposed endeavor will have revenue growth of up to $44.6 million by its fifth year of operation. In addition, he contends that his proposed endeavor will create 35 direct jobs and up to 770 total jobs. *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. Here, the record does not establish his company's future staffing levels and business activity stands to provide substantial economic effects. Specifically, the record does not demonstrate the direct creation of 35 additional jobs in this sector or the above stated revenue generated by the company will have a substantial economic benefit commensurate with the national importance element of the first prong of the *Dhanasar* framework. In addition, there is insufficient information about the 770 indirect jobs. For example, the record includes information about how this number was calculated using a multiplier; but does not discuss how the Petitioner's proposed endeavor will create these jobs, what types of jobs will be created, or where they will be located. Furthermore, the record does not establish that the Petitioner will be creating jobs in areas that are economically depressed. The company will be located in Virginia, and the Petitioner intends for his proposed endeavor to have national and international customers. However, the record does not establish that he will be targeting or impacting areas that are economically depressed. Therefore, we conclude that the record does not establish the staffing levels, business activity, or location of the company stand to provide the economic impact *Dhanasar* requires.

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, remaining *Dhanasar* prongs. *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 he 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.