U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39854625

Date: SEP. 8, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a business continuity planner, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability , 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, concluding the Petitioner did not establish that he was an individual of exceptional ability. SCOPS also determined the Petitioner did not demonstrate 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. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[1] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit

[1] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

the national economy, cultural or educational interests, or welfare of the United States. Section 203(b)(2)(A) of the Act.

Once a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *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 a matter of discretion[2], 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.

II. NATIONAL IMPORTANCE

The sole issue we will address is whether the Petitioner established eligibility for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* 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. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with SCOPS' conclusion that the proposed endeavor has substantial merit as it falls within the range of areas of substantial merit, namely business. *Id.* However, while the Petitioner has established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner states his proposed endeavor in the United States is to work as a consultant in business continuity planning and business development "specializing in small business economic development." The Petitioner indicates he would launch a new venture providing consulting services to help advance "Latino entrepreneurship and business growth in small and medium-sized businesses." The Petitioner points to the COVID pandemic and how it reaffirmed preparation for such events, including the business continuity consulting services he plans to provide in the United States. He asserts that his business continuity plans would play a critical role in the survival of businesses that impact the support of basic human needs, national security, and the economy of the United States. The Petitioner states that his consulting services would have national implications on various types of businesses, including start-up companies, Latino woman owned businesses, businesses struggling to recover from financial and operational disruption, and sole proprietors.

In addition, the Petitioner indicates that his company's consulting services would support staff members of existing small businesses through the implementation of training and mentorship

[2] *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 to be discretionary in nature).

programs promoting learning and development. He asserts that Latino businesses are a key driver in the economy's revitalization and "foundational" to the U.S. economy. He states that the size and growth, youth, and dramatic increase in educational achievement in Latino communities creates an ideal formula for growth and resiliency. The Petitioner emphasizes that his proposed endeavor aligns with executive orders promoting equity and opportunity for Latino communities, noting these businesses play a crucial role in the "entrepreneurial dynamism" of the U.S. economy and act as major drivers of small businesses. The Petitioner indicated that support of Latino owned businesses and increased access to capital, business consultation services, and education is critical and nationally important for the survivability of the U.S. economy.

SCOPS later issued a request for evidence (RFE) stating that the submitted evidence did not demonstrate the benefits the Petitioner's proposed endeavor would have on the regional or national economy rising to the level of substantial economic effects as contemplated by *Dhanasar*. As such, SCOPS asked for additional evidence to establish the potential prospective national impact of the Petitioner's proposed endeavor.

In response, the Petitioner stated that his proposed new company would develop and strengthen the business continuity of Latino small businesses in the United States through its unique value proposition (UVP), including training and mentorship in commerce, services, and production. The Petitioner indicated that the focus of his proposed consulting company would be on risk analysis tailored to small businesses including methods that could be immediately applied to prevent, manage, and overcome structural or operational crises. The Petitioner emphasized that Latino small businesses in the United States are expanding, but that "they have strong areas of vulnerability related to information for productivity, the management of risk factors in key areas, and access to financing that prevent them from developing." The Petitioner asserted his aim is to be recognized as a leading organization in the development of Latino businesses in the United States with locations in Florida, Texas, and California over the next ten years. The Petitioner provided a broad list of projected services his business would provide, including basic and targeted training and standardized and focused mentoring covering management, distribution, logistics, inventory management, purchasing management, quality assurance, human resources, among others.

The Petitioner further stated that there had been huge profit growth in Latino companies over the last decade, highlighting their importance to the U.S. economy. The Petitioner contends his company would allow Latino companies to have higher income and levels of performance thereby benefiting the overall economy. The Petitioner indicates that his company would, through its projected mentoring program, provide services to a total of 600,000 small business entrepreneurs in five years. He further asserts that he would target the manufacturing sector "strengthening…the made in the USA seal for domestic consumption in US and export [sic]." The Petitioner again emphasized that his proposed endeavor was consistent with executive branch initiatives and Congressional legislation promoting small and minority business development.

In denying the petition and concluding the Petitioner did not demonstrate the national importance of his proposed endeavor, SCOPS determined that he did not establish that his proposed endeavor would have substantial positive economic effects and have a broad impact beyond his immediate community. SCOPS emphasized that the Petitioner asserted that his proposed new business would hire only four

workers within its first five years of operation, leaving substantial question as to its potential prospective national impact.

On appeal, the Petitioner contends that his proposed endeavor has national importance because it impacts an area that a government entity had described has having national importance; namely, small Latino businesses in the United States. The Petitioner indicates that SCOPS erred by focusing only on the potential economic impacts of his proposed endeavor. He contends his proposed business consulting company would hire eight employees within the first five years rather than the four employees discussed by SCOPS in the denial decision. The Petitioner asserts that through his "ambitious plan" he aims to strengthen 36,230 Latino small businesses in direct alignment with national initiatives promulgated by the White House and Congress. The Petitioner states that his support for these businesses will "generate employment, stimulate the local economy, contribute fiscally, and reduce dependence on social assistance." The Petitioner indicates that his proposed endeavor is nationally important since it will promote the quality of Latino small businesses, as opposed to the quantity, in training and strengthen their advanced analytical skills contributing to a more adaptative economy and generating "positive and sustainable economic impact."

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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.

First, the Petitioner submitted generic assertions regarding the nature of the consulting services that his proposed consulting company would provide. For instance, the Petitioner discussed a wide range of potential services including "unique value proposition (UVP)[3]" and training and mentorship in commerce, "services," production, risk analysis and business continuity plans. The Petitioner further discussed basic and targeted training and standardized and focused mentoring covering numerous fields, such as management, distribution, logistics, inventory management, purchasing management, quality assurance, human resources, among others. However, in each case, the Petitioner provided little detail on these various types of services that cover a wide variety of topics such that could each be their own industries. The Petitioner discusses "advanced techniques," "business strategies," and "analytical capabilities," but does not describe them in detail to credibility demonstrate how they would potentially have a potential prospective national impact in so many different fields. The Petitioner further asserted national level impacts on start-up companies, Latino woman owned businesses, businesses struggling to recover from financial and operational disruption, and sole proprietors, but provided little detail and supporting documentation to substantiate these claimed impacts. Likewise, the Petition explained that he would strengthen "made in the USA seal," yet submitted little explanation or support for how his services would have a national level impact on U.S. manufacturing.

[3] It is further notable that this concept was left largely unexplained by the Petitioner.

In contrast, the Petitioner often emphasizes his 20 years of skills and experience providing training and related consulting services to small businesses. However, while we recognize that the Petitioner gained experience while employed abroad, a petitioner's expertise and record of success is a consideration under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* The issue here is whether the Petitioner has demonstrated the national importance of a specific proposed endeavor. However, the Petitioner does not sufficiently detail and document how his work in the consulting field would be materially different from any other similar experienced employee working in this field, leaving doubt as to likelihood of its potential prospective national impact.

The Petitioner also regularly emphasized the importance of Latin owned businesses and their positive impact on the economy, of which we have little doubt. However, even if these businesses have a national level impact on the U.S. economy, it does not follow that the Petitioner's proposed endeavor would also have such an impact. Again, in *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. For example, the Petitioner points to a University of Stanford study which concluded that there was a gap in earnings between non-Latino and Latino companies amounting to 1 million jobs and $410 billion dollars. The Petitioner stated that if Latino businesses were utilized at the same capacity as their non-Latino counterparts this would contribute $900 billion in profits and over 4 million employed to the U.S. economy. Consistent with the Petitioner's logic, this would mean that the national economic contribution of Latin owned businesses is substantial, amounting to approximately $490 billion in profits and 3 million employed. Therefore, it is not clear how the Petitioner's proposed endeavor would have a national level impact on the apparently massive Latino owned business sector, particularly when he indicates that his business would only employ a maximum of eight employees by its fifth year.

As discussed, SCOPS noted the Petitioner's modest employment projections indicating this would be four employees, while the Petitioner asserts on appeal this was in fact eight employees over five years. Regardless, it is not clear how an additional four employees would amount to a national level impact in such a large sector of the economy ranging from numerous industries and business types. For instance, the Petitioner emphasizes on appeal that his proposed business consulting company would "aim to strengthen 36,230 small Latino businesses in the United States" across Florida, Texas, and California within five years. However, it is not clear how this would amount to a national level impact in a sector including approximately $490 billion in profits and 3 million employees and how the Petitioner would provide consulting services to this many customers within five years with such a modest staff. In fact, the Petitioner provided conflicting statements as to the amount of customers his company would provide services to within the first five years, indicating in its business plan that this would be a total of 14,900, while in a support letter provided in response to the request for evidence (RFE) he stated that "in the mentoring program alone, a total of 600,000 small entrepreneurs are expected to be mentored in five (05) years nationwide." Now on appeal, the Petitioner indicates that it would provide consulting services to 32,230 Latin owned businesses. The Petitioner conflicting and unsupported assertions leave substantial uncertainty as to his claims as to the potential prospective national importance of his proposed endeavor. The Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Furthermore, the Petitioner offered other bold and unsupported assertions as to the national impact of his proposed endeavor asserting that it would have a national level impact on a lack of financing in the community of Latin owned businesses, the "health sector," dependence on social assistance, "the national security and economy for all Americans," U.S. economic sustainability, and science, technology, engineering, and math (STEM) in the United States. Indeed, it is not clear how the provision of business consulting services would reflect a national level impact on STEM endeavors in the United States, nor how the Petitioner's business projecting a maximum of eight employees after five years would have such a broad reaching national impact on so many massive national level issues. Generalized conclusory statements that do not identify a specific impact to the field have little probative value. *See e.g., 1756, Inc. v. U.S. Att'y Gen.*, 745 F. *See also*, Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

Further, the record does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Dhansar* at 890. Although the Petitioner submitted non-specific and unsupported business plans asserting the business would hire 8 employees after the first five years of operation, it did not properly substantiate how this would have a national level impact on a large Latino business sector. The Petitioner did not submit specific and targeted business plans but provides generic assertions about impacting numerous aspects of the economy, each which could be reasonably deemed separate, large, industries or aspects of the economy. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, he has not provided sufficient explanation of the prospective national impact directly attributable to his proposed work or established how his endeavor would impact an economically depressed area. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second prong and as to whether he qualifies as an individual of exceptional ability. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); *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).

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.