U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39403185

Date: SEPT. 18, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a security consultant, requests classification under the employment-based, second-preference (EB-2) immigrant visa category and a waiver of the category's job-offer requirement. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(B)(i), 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) has discretion to excuse job offers in this category – and thus related requirements for certifications from the U.S. Department of Labor (DOL) – if petitioners demonstrate that waivers of these U.S.-worker protections would be "in the national interest." *Id.*

Service Center Operations (SCOPS) denied the petition. Although finding the Petitioner eligible for EB-2 classification as an alien of "exceptional ability," SCOPS concluded that he did not demonstrate that a waiver would serve the national interest. On appeal, the Petitioner contends that SCOPS overlooked evidence of his proposed work's "national importance" and a waiver's benefits to the country. He also argues that SCOPS erred in finding that he did not qualify for the EB-2 category as a member of the professions holding an "advanced degree."

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *See Matter of Ho,* 19 I&N Dec. 582, 589 (BIA 1988). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we affirm FOD's finding that he has not established his proposed work's claimed national importance. We will therefore dismiss the appeal.

I. LAW

To establish eligibility for national interest waivers, petitioners must first demonstrate their qualifications for the EB-2 category, either as advanced degree professionals or aliens of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. To protect jobs for U.S. workers, this immigrant visa category generally requires prospective U.S. employers to offer aliens work and to obtain DOL certifications to permanently employ them in the country. Section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D); *see also Lee v. USCIS*, 592 F.3d 612, 616 (4th Cir. 2010) (explaining that, in employment-based immigration, U.S. employers must generally offer beneficiaries jobs and sponsor them for labor certifications). Petitioners may avoid the job-offer/labor-

certification requirements by demonstrating that waivers of the U.S.-worker protections would be "in the national interest." Section 203(b)(2)(B)(i) of the Act.

Neither the Act nor regulations define the term "national interest." So, to adjudicate these waiver requests, we have established a framework. If otherwise qualified as advanced degree professionals or aliens of exceptional ability, petitioners may warrant waivers of the job-offer/labor-certification requirements by demonstrating that:

- Their proposed U.S. work has "substantial merit" and "national importance;"
- They are "well positioned" to advance their intended endeavors; and
- All things considered, waivers of the job-offer/labor certification requirements would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. 884, 889-91 (AAO 2016); *see generally* 6 *USCIS Policy Manual* F.(5)(D)(1), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Petitioner and His Proposed Endeavor

The record shows that the Petitioner served more than 20 years in his home country's military. He worked in special forces units as a risk assessment officer and a security risk management officer. He has a bachelor's degree in economics/marketing and a master's degree in organizations and human resources management.

Now in the United States, the Petitioner works at a [redacted] facility. He states his intent to start his own U.S. business that would provide security consulting, assessments, and mitigation for public and private entities.

B. EB-2 Classification

The record supports SCOPS' finding that the Petitioner qualifies for EB-2 classification as an alien of exceptional ability. *See* section 203(b)(2)(A) of the Act. On appeal, he contends that SCOPS erred by not finding him EB-2 eligible as an advanced degree professional. *Id.*

As previously indicated, petitioners may qualify for EB-2 classification as aliens of exceptional ability "*or*" as advanced degree professionals. *See* section 203(b)(2)(A) of the Act (emphasis added). Because the Petitioner qualifies for EB-2 classification as an alien of exceptional ability, we need not decide whether he is also an advanced degree professional. We therefore will not consider his argument regarding his claimed additional EB-2 eligibility. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies generally need not make findings on issues "unnecessary to the results they reach").

C. Substantial Merit

The record also supports SCOPS' finding that the Petitioner's proposed U.S. endeavor has substantial merit. We will therefore move on to review SCOPS' decision on the endeavor's claimed national importance.

D. National Importance

When determining whether a proposed endeavor has national importance, USCIS must focus on the particular venture, specifically on its "potential prospective impact." *Matter of Dhanasar*, 26 I&N Dec. at 889. "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.* Also, "[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.

> Ultimately, if the evidence of record demonstrates that the person's proposed endeavor has the significant potential to broadly enhance societal welfare or cultural or artistic enrichment, or to contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance.

6 *USCIS Policy Manual* F.5(D)(1).

The Petitioner contends that the security field has national importance and that his proposed business would: provide security services; create jobs, including for former U.S. law enforcement and military personnel; and relieve governmental security burdens. He submitted a business plan stating that his proposed business would begin as a sole proprietorship from his home. The plan states that, before eventually bidding for security contracts from corporations and governmental agencies, the business would provide security services to households, event planners, communities, schools, and hospitals.

The business plan projects sales of $100,000 to $150,000 in the business's first year, $200,000 to $250,000 in its second year, and $300,000 to $350,000 in its third year. The Petitioner would be the organization's only worker during its first year, but the business would reportedly hire two full-time security specialists in the second year. By the end of the business's fourth year, the plan projects the organization's hiring of at least seven more people, including a: chief security officer/manager; security consultant; administrative and human resources manager; and marketing and sales executive.

In response to SCOPS' request for additional evidence (RFE), the Petitioner submitted an "improved" business plan under which the organization would provide training against national and international terrorism. He stated that the expanded service would create additional jobs for former special forces military personnel. The updated business plan also increases the organization's maximum projected third-year revenue from $350,000 to $400,000.

SCOPS found insufficient evidence that the Petitioner's proposed security business would have a broad enough impact to be nationally important.

> Although the petitioner states that his business plan enhancement "to include training against national and international terrorism" will "increase the company operation field and create more jobs for security professionals and veterans in the field of special operations," he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance.

SCOPS also found insufficient evidence that the business would provide substantial economic benefits or has significant potential to employ U.S. workers. SCOPS stated: "Serving as a consultant to a particular pool of clients does not demonstrate an impact that will extend beyond those customers, such as by having broader implications in the field."

On appeal, the Petitioner provides new evidence about increasing levels of U.S. school violence. He contends that these materials show "a need for [his] kind of specialized training across the nation." He also submits copies of letters from a retired U.S. Coast Guard official and companies expressing interest in his business's proposed services. The letter from the retired Coast Guard official states that the Petitioner would "protect, employ and deploy countless measures to secure American interest in the ever-evolving global shipping presence as maritime trade alone accounts for 90% of world trade."

The record shows that SCOPS notified the Petitioner of the need for additional evidence of his proposed business's national importance and provided him a reasonable opportunity to submit materials. We therefore will not consider his additional evidence on appeal. *See Matter of Furtado*, 28 I&N Dec. 794, 801–02 (BIA 2024) (declining to consider evidence for the first time on appeal where a petitioner received notice of required materials and an opportunity to respond).

Even if we considered the appellate evidence, it would not demonstrate the proposed business's national importance. The evidence focuses on the security field's national and global significance. But, when considering national importance in these proceedings, we must focus on an alien's particular endeavor. *See Matter of Dhanasar*, 26 I&N Dec. at 889 ("The first prong [in determining a proposed endeavor's national interest], substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake.") The Petitioner's appellate evidence does not detail or explain the claimed national implications of his specific proposed security business.

We recognize the security field's importance in an increasingly violent world. But the Petitioner has not demonstrated that his particular proposed security business would have a national impact. His business plan does not indicate that the organization would generate enough revenues or employ enough U.S. workers to substantially boost the nation's economy. Nor has he demonstrated that his business's services would advance the security field.

In *Dhanasar*, we found that a petitioner's proposed venture to teach science, technology, engineering, and mathematics (STEM) courses at a U.S. university had substantial merit. *See Matter of Dhanasar*, 26 I&N Dec. at 893 ("STEM teaching has substantial merit in relation to U.S. educational interests.") But we ruled that the endeavor would not likely have a broad enough impact to demonstrate national importance. *Id.* ("[T]he record does not indicate by a preponderance of the evidence that the petitioner would be engaged in activities that would impact the field of STEM education more broadly.")

As in *Dhanasar*, the Petitioner's proposed security business has substantial merit. But, also like the endeavor in *Dhanasar*, the record does not establish that the organization would "more broadly" affect the security field or the U.S. economy. *See* 6 *USCIS Policy Manual* F.5(D)(3) ("At issue is whether the petitioner can demonstrate that the person's own individual endeavor stands to have broader implications, such as for a field, a region, or the public at large.")

E. Remaining Issues

The record supports SCOPS' finding that, under *Dhanasar*'s second prong, the Petitioner is well positioned to advance his proposed business.

Regarding the potential benefits of a waiver under *Dhanasar*'s third prong, our finding of insufficient evidence of the claimed national importance of the Petitioner's proposed endeavor resolves this appeal. We therefore need not consider and hereby reserve review of his arguments regarding a waiver's purported benefits to the United States. *See Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

The Petitioner has not demonstrated that his proposed endeavor would have national importance. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.

NOTICE: This is the final decision in this matter. A motion's filing would not postpone the decision's effect. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are unlawfully present, or who are otherwise inadmissible or deportable, may receive Forms I-862, Notices to Appear, placing them in removal proceedings. *See* section 240 of the Act, 8 U.S.C. § 1229a. Removal proceedings may result in an alien's removal from the United States and ineligibility for U.S. visas or other immigration benefits.