U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39210730

Date: SEPT. 18, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a nondestructive testing and chemical engineer, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or 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).

Service Center Operations (SCOPS) denied the petition, concluding the record did not establish 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 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. 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: (1) the proposed endeavor has both substantial merit and national importance; (2) the individual is well-positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer requirement would benefit the United States. *Id.*

[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).

II. ANALYSIS

SCOPS determined that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional but did not establish his eligibility under the *Dhanasar* analytical framework.[2] Specifically, they found that the Petitioner did not demonstrate his proposed endeavor's substantial merit or its national importance under the first prong.[3] For the reasons set forth below, we conclude that the Petitioner has shown his endeavor's substantial merit; however, we agree with SCOPS that the Petitioner has not demonstrated his endeavor's national importance and so is not eligible for a national interest waiver. Accordingly, we will dismiss the appeal.[4]

The Petitioner has approximately 25 years of experience in the fields of non-destructive and chemical engineering. His past positions include roles as a painting and welding inspector, chief of non-destructive testing, quality control manager, project manager, and a senior NDE engineer.

In his business plan, the Petitioner stated his proposed endeavor is to create his own consulting company, [redacted]. His company will "offer a comprehensive suite of non-destructive testing (NDT) services tailored to the oil and gas sector, ensuring the highest standards of safety, efficiency, and regulatory compliance." His company's key services will include pipeline integrity assessment, weld inspection and quality assurance, corrosion mapping and analysis, equipment integrity validation, and advanced imaging and analysis.

In concluding the Petitioner did not meet the requirements of *Dhanasar's* first prong, SCOPS found that the documentary evidence did not support the Petitioner's statements that his proposed endeavor had substantial merit in an area such as business, entrepreneurialism, science, technology, culture, health, education, the arts, or social sciences. SCOPS also found the Petitioner did not establish his endeavor's national importance in that he did not show his endeavor would have implications beyond his future company and its clientele to impact the NDT field more broadly, have a significant potential to employ U.S. workers, or have other substantial positive economic effects.

On appeal, the Petitioner asserts, among other things, that SCOPS failed to consider the nature of the Petitioner's services and broader policy landscape. He argues that SCOPS did not consider the totality of the evidence and misapplied the standard of proof by disregarding the "compelling and probative" documentation in the record. He contends that the evidence submitted was sufficient to establish his eligibility for a national interest waiver.

Upon de novo review, we conclude the record supports the proposed endeavor's substantial merit. The record contains sufficient documentation, including the Petitioner's business plan, articles, and other background material, to show that the endeavor falls within one or more of the areas contemplated by *Dhanasar*. As such, we will withdraw SCOPS' determination on this issue. Nevertheless, we agree with the Director's conclusion that the Petitioner has not demonstrated his proposed endeavor's national importance and, thus, has not shown he satisfies *Dhanasar's* first prong.

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[2] The Petitioner submitted evidence he holds the equivalent of a U.S. bachelor's degree and has five years of post-baccalaureate experience in the specialty.

[3] SCOPS also concluded that the Petitioner did not meet *Dhanasar's* second or third prongs.

[4] While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

As explained in SCOPS' decision, the first prong—substantial merit and national importance—focuses on the specific endeavor that the foreign national proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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, such as those resulting from certain improved manufacturing processes or medical advances." *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.

Here, the Petitioner has not met his burden to demonstrate his proposed endeavor's prospective impact rises to the level of national importance. The Petitioner argues on appeal that SCOPS erred in dismissing his endeavor as limited in scope to his company and clients. He also asserts that his endeavor's alignment with national priorities including maintaining and modernizing critical infrastructure, such as aging pipelines and energy production facilities, underscores his endeavor's national importance. But the Petitioner has not shown, and the record does not delineate, how the impact resulting from his individual company's NDT consulting services—the endeavor proposed here—would sufficiently extend beyond his company and its clients to impact the industry, region, or nation more broadly at a level commensurate with national importance.

Much of the evidence in the record and the Petitioner's arguments focus on the general importance of his industry. He discusses the value of the NDT field and submits various articles on topics including NDT services in the U.S. and information on NDT certifications. But, the Petitioner's articles, provide only general background information on the field and do not specifically relate to or discuss the Petitioner's proposed endeavor, including how his future work would produce broader, nationally important impacts. While we acknowledge the value of the NDT field, as well as the value of individuals working in these areas, working in an important field alone is insufficient to establish the national importance of the proposed endeavor. *See id.* at 889. The Petitioner must still demonstrate the endeavor's potential prospective impact in that area of national importance.

Although the Petitioner argues that SCOPS failed to consider the nature of his services and broader policy landscape, his contentions, without more, do not demonstrate how his specific undertaking would produce such asserted beneficial results. For example, the Petitioner argues that his endeavor is not a "generic consultancy" but rather a niche professional enterprise that will support U.S. infrastructure resilience. But the services described in his business plan—pipeline integrity assessment, weld inspection and quality assurance, corrosion mapping and analysis, equipment integrity validation, and advanced imaging and analysis—appear to be activities which are generally encompassed within NDT consulting services. Again, the Petitioner has not shown, and the record does not delineate, how these activities would have broader implications for the field to reach the level of national importance, and/or to show SCOPS erred in their analysis.

Further, the record, including the Petitioner's business plan, does not reveal any process improvements or advances similar to those referenced in *Matter of Dhanasar*, 26 I&N Dec. at 889. While the Petitioner asserts that his endeavor will integrate cutting-edge technology into its operations, he has not explained how this technology is different from what is already available in the market or how his

individual company's use of them would result in nationally important impacts. Likewise, although the Petitioner also claims to have developed an "innovative idea" that could significantly shorten the period of shutdown for power plants and "greatly benefit" power plant operators in the U.S., he has not described what his idea is, much less how he will achieve the goals he claims would provide such significant benefits. And, despite his arguments that his endeavor will contribute to the public good in a manner beyond private enterprise by, for example, directly affecting the safety of workers, the environment, and public infrastructure, the Petitioner does not demonstrate through sufficient documentation in the record how his specific undertaking would directly produce such results.

The record also does not contain sufficient evidence to support the positive economic effects the Petitioner contends will be realized by his proposed endeavor. According to his business plan, the Petitioner intends to invest $250,000 into his company. He expects to employ six individuals with sales of $625,900 in the first year of operation, increasing to 18 employees with sales of $2,735,000 by the fifth year. He also projects he will pay $71,668 in taxes in year one, increasing to $298,636 by year five. But the plan does not explain how these forecasts were calculated, or adequately clarify how these projections will be realized. Nor does the record contain sufficient evidence to support the business plan's financial projections as claimed.

Even if we assumed these figures were accurate though, the Petitioner has not explained his revenue data's significance or how that data shows that any potential benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. The Petitioner has not presented evidence illustrating how the claimed creation of 18 jobs by year five demonstrates a significant potential to employ U.S. workers or otherwise shows how his endeavor's potential economic impact through taxes, jobs, or revenue would result in any demonstrable effect on the regional or national economy. And despite his claims that the U.S. NDT workforce is experiencing shortages, there is little evidence that his future work stands to impact or significantly reduce any claimed national shortage. While we agree with the Petitioner's contention on appeal that job creation is not the sole determinant of national importance and that an endeavor may be nationally important where it has national or global implications in the field, as discussed above, the record as it currently stands is insufficient to show how the Petitioner's specific activities would produce such broader nationally important impacts.

The Petitioner also presented several support letters from former work colleagues and points to his expertise and past accomplishments to further illustrate the potential impact of his proposed endeavor. However, these letters also do not establish the endeavor's national importance. First, we note that insofar as these letters, the Petitioner, and other evidence in the record highlight the Petitioner's expertise, personal attributes, and record of success, these are considerations more relevant to *Dhanasar's* second prong. *Id.* When conducting an analysis under *Dhanasar's* first prong, we focus on the proposed endeavor itself. *Id.* at 889.

Additionally, while the authors of the letters generally praise the Petitioner's personal attributes, professional skills, and achievements, they do not discuss the Petitioner's endeavor or specific impact thereof. For example, Dr. [redacted], submitted a letter describing the Petitioner's work and how the Petitioner's contributions helped extend the life of his clients' infrastructure, reduce maintenance costs, elevate safety standards, and ensure the uninterrupted efficiency of operations. Although Dr. [redacted] claims the Petitioner's work not only benefitted the company but also had a

"significant positive influence on the broader industry in Egypt and the MENA region," he does not provide further explanation or basis for his assertions. His claims of broader impact alone are insufficient to establish the national importance of the endeavor. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight"). As such, we find the letters submitted provide little probative value in weighing the endeavor's national importance.[5]

The Petitioner has not met his burden of proof to demonstrate his eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 375. Because the record does not establish the national importance of his proposed endeavor as required by *Dhanasar's* first prong, the Petitioner has not demonstrated eligibility for a national interest waiver. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining issues and arguments concerning whether he has established eligibility under the remaining two *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

As the Petitioner has not met the national importance element requisite to *Dhanasar's* first prong, he has not established 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.

[5] The Petitioner also filed an additional support letter with his appeal. But like the other previously submitted letters, this document also focuses on the Petitioner's past accomplishments and expertise and does not address the national importance of the Petitioner's endeavor.