U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38997248

Date: SEP. 19, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a lawyer, 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 although the Petitioner established that he qualifies for the underlying EB-2 visa classification as an advanced degree professional, he did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.[1] 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.

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,[2] grant a national interest waiver if the petitioner demonstrates that:

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[1] An advanced degree is any U. S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 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. 8 C.F.R. § 204.5(k)(2).

[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 is discretionary in nature).

- 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.

Id. at 889.

The Petitioner proposes to work as a lawyer "to provide his specialized services in Privacy and Cybersecurity Risk Compliance, Real Estate and Probate, Company Secretarial and Compliance, Dispute Resolution and Intellectual Property to impact the legal services industry in the United States." The Petitioner further explains in his professional plan that his "project scope centers around developing comprehensive privacy and cybersecurity compliance programs alongside enhancing intellectual property protection for U.S. businesses" and that he "aims to create scalable and adaptable solutions that address compliance gaps and cybersecurity vulnerabilities across industries such as technology, finance, and healthcare."

SCOPS determined the Petitioner demonstrated the substantial merit of the proposed endeavor but did not establish its national importance. On appeal, the Petitioner contends SCOPS erred in their determination and states that he provided "profuse documentation evidencing the national importance of his proposed endeavor" in response to SCOPS' request for evidence.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we noted that, in assessing national importance, "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.* at 890. 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.*

In support of national importance, the Petitioner highlights information from various industry reports and articles, which include cyber-attack and intellectual property statistics, to show the urgency for his cybersecurity services.[3] The Petitioner asserts that this evidence establishes that his "initiative to implement scalable privacy, cybersecurity, and intellectual property (IP) compliance frameworks will have a substantial national and global impact." However, the industry reports and articles submitted do not discuss any projected benefits specifically attributable to the Petitioner's proposed endeavor.

In addition, the Petitioner states that his "initiative will generate substantial job creation, economic inclusion, and support for vulnerable communities." He further asserts his "creation of scalable compliance platforms will reduce operational inefficiencies and regulatory burdens on business, thereby freeing up resources for investment and hiring" and "[t]his will result in increased employment opportunities, particularly in fields in critical to national economic and security interests." It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. While any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the asserted

[3] While the Petitioner did not submit copies of the referenced articles, he did provide the links to the articles' websites.

potential prospective impact of his proposed endeavor stands to offer broader implications in his industry or generate substantial positive economic effects. Here, the record does not contain information or evidence regarding any projected direct economic impacts or job creation attributable to the Petitioner's future work within the context of his specific proposed endeavor. Therefore, he has not sufficiently explained how his proposed endeavor to work as a lawyer in the field of cybersecurity has the significant potential to employ U.S. workers. While the Petitioner submitted a professional plan and a supplement to the professional plan outlining the types of services he may provide to U.S. businesses, he did not provide a business plan, or any other plans or projections explaining the expected scope of his intended activities, nor did he otherwise support his general claim that his proposed endeavor would have potential positive economic effects at a level commensurate with national importance.

Moreover, while the Petitioner asserts his initiative will address the challenges small businesses face regarding regulatory compliance and operational resilience in underserved communities, he has not provided evidence that the area where he intends to operate in is economically depressed, that his proposed endeavor would employ a significant population of workers in the economically depressed areas, or that the proposed endeavor would offer the region or its population a substantial economic benefit through employment levels, business activity, or related tax revenue. While the intention is meritorious, the Petitioner has not provided corroborating evidence to support these claims. The Petitioner must support his assertions with relevant, probative, and credible evidence. *Matter of Chawathe*, 25 I&N Dec. at 376.

Further, the Petitioner notes that his proposed endeavor aligns "directly with strategic national priorities outlined in official government reports and policy frameworks, particularly in the areas of cybersecurity, intellectual property protection, and business resilience." However, merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Id.* at 889. Instead, when determining whether the proposed endeavor has 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." *Id.* Thus, while we acknowledge that the cybersecurity industry is important, this fact is insufficient to establish the national importance of his proposed endeavor.

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address his eligibility under the remaining prongs, and we hereby reserve them. *See INS v. Bagamasbad,* 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. The burden of proof is on the Petitioner to establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that he has not established eligibility for 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.