U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39461744

Date: SEP. 22, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an advanced computing specialist, 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 record did not establish that a waiver of the required job offer, and thus of a 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:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner intends to act as a consultant, lead strategist, and founder of a consulting firm, [redacted] that "will provide scalable, AI-driven sustainable computing solutions." Specifically, the Petitioner asserts her proposed endeavor will include: 1) development of predictive maintenance frameworks to reduce downtimes and strengthen supply chains, 2) integration of eco-friendly and power-saving IT architectures, and 3) sector-specific innovations in autonomous vehicles, healthcare diagnostics, and semiconductor optimization.

SCOPS found the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

A. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* SCOPS determined the Petitioner's proposed endeavor has substantial merit and we agree.

SCOPS concluded, however, that the Petitioner did not establish the national importance of her proposed endeavor as Petitioner's business plan, letters of recommendation, and work experience did not offer "sufficient information and evidence to demonstrate that the prospective impact of the proposed endeavor rises to the level of national importance." In addition, SCOPS determined the record lacked sufficient evidence demonstrating "that the benefits to the U.S. regional or national economy resulting from the [P]etitioner's proposed endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*."

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90.

On appeal, the Petitioner asserts SCOPS's denial decision misapplied the *Dhanasar* standard, erroneously describing her endeavor as consisting of the "typical occupational duties of an information technology manager." The Petitioner contends that SCOPS' mischaracterization of her endeavor demonstrates SCOPS' failure "to analyze its broader policy and economic significance." However, the Petitioner's assertions do not accurately reflect SCOPS' statements and findings. In considering the Petitioner's proposed endeavor, SCOPS did not describe her endeavor as the occupational duties of an information technology manager. Rather, in its denial decision, SCOPS described the

Petitioner's proposed endeavor through the citation of two paragraphs of text from the Petitioner explaining the endeavor, its focus and goals, and its intended clientele.

The Petitioner asserts her proposed endeavor has national impact as it is tailored to "entities identified as vital to national competitiveness," such as U.S. manufacturers, hospitals, and energy companies and aligns with "U.S. economic, technological, and environmental priorities" by addressing outdated systems, lack of sustainable IT infrastructure, insufficient high-performance capabilities, and sectoral digital lag.[2] The record contains governmental fact sheets related to the importance of attracting STEM talent and supporting U.S. jobs, an executive order related to the improvement of cybersecurity, and a list of critical and emerging technologies that includes advanced computing. The Petitioner asserts her business plan details the national impact of her endeavor, including: support for the digital economy, acceleration of American innovation, reinforcement of the U.S. manufacturing base, and transformation of the healthcare and energy sectors. In addition, the Petitioner asserts that record letters of support affirm her endeavor's "alignment with U.S. federal initiatives such as the National AI Initiative and the U.S. Digital Strategy." The letters of support, in pertinent part, claim that the Petitioner's proposed endeavor "will significantly contribute to the development of U.S. industries," "enhance corporate competitiveness," "strengthen the technological infrastructure," and "foster research, innovation, and collaboration." We acknowledge the importance of the fields of advanced computing, manufacturing, healthcare, and energy. However, the determination of national importance does not focus on the importance of these fields in general, but rather "focuses on the specific endeavor that that the foreign national proposes to undertake." *Id.* at 889. Here, the letters of support assert that the national importance of the Petitioner's proposed endeavor exists in its potential to "enhance efficiency, scalability, and sustainability" in key sectors, its potential for "scientific discovery and operational improvements," and the fostering of "research, innovation, and collaboration." However, the authors do not detail exactly how the Petitioner's specific endeavor would meet this potential or even foster research and innovation, to the level of national importance. The Petitioner claims that her proposed innovations "are not limited to the end-users of the software, but rather have sector-wide implications." Rather, the Petitioner indicates her endeavor provides a scalable model that will be headquartered in [redacted] with planned expansion into [redacted] within its first five years. However, the Petitioner does not detail how her consultancy work, even upon expansion into five cities, would have a broader impact on the field, rising to the level of national importance. The Petitioner does not claim or otherwise demonstrate that the breadth of a company alone correlates with national or even global implications within a field.

The Petitioner indicates her business plan outlines the intended expansion of her proposed endeavor into "multiple U.S. markets, including economically distressed regions." The Petitioner contends her endeavor focuses on "underserved areas with high potential for economic revitalization through technological modernization." The Petitioner's business plan projects that [redacted] will have 20 employees by its fifth year, with payroll expenses totaling over 1.5 million dollars. The Petitioner asserts she will "contribute to indirect job creation by stimulating demand across various sectors," and "contributing to broader economic development." However, the Petitioner's business plan does not elaborate on its employment and financial projections; they are not supported by details showing their

[2] The Petitioner contends her assertions are supported by her "proven record of providing consultancy services to top IT companies worldwide." It is noted it is the second prong of the *Dhanasar* framework that "shifts the focus from the proposed endeavor to the foreign national" in considering amongst its factors a petitioner's record of success in related or similar efforts. *Matter of Dhanasar*, 26 I&N Dec. at 890.

basis or an explanation as to how they will be achieved. The Petitioner also highlights that 23.5% of Texas' population resides in distressed communities, with an additional 19.4% residing in at-risk zip code. The Petitioner does not assert or demonstrate that the Texas cities in which [redacted] intends to operate [redacted]) fall within either an at-risk or distressed community. Overall, the Petitioner has not sufficiently demonstrated that [redacted] future staffing level and business activity projects stand to provide substantial economic benefits to Texas or other parts of the United States that would reach the level of substantial positive economic benefits contemplated by *Dhanasar*. *Id.* at 890.

For the reasons stated above, the Petitioner has not established that her proposed endeavor has significant potential to employ U.S. workers, particularly in an economically depressed area; has other substantial positive economic effects; has national or even global implications within the field; or has other broader implications indicating national importance.

B. Additional *Dhanasar* Prongs and Ineligibility

As our finding on this issue is dispositive of the Petitioner's appeal, we decline to reach and reserve whether the Petitioner has met the additional prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude the Petitioner has not demonstrated eligibility 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.