U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39461814

Date: SEPT. 22, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur and developer of "smart" parking facilities, 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 requirements for certifications from the U.S. Department of Labor (DOL) – if petitioners demonstrate that waivers of these U.S.-worker job protections would be "in the national interest." *Id.*; *see also Brasil v. Sec'y, Dep't of Homeland Sec.*, 28 F.4th 1189, 1192 (11th Cir. 2022).

Service Center Operations (SCOPS) denied the petition. SCOPS found the Petitioner eligible for EB-2 classification as a member of the professions holding an "advanced degree." But SCOPS concluded that he did not demonstrate that waiving a job offer would serve the nation's interest. On appeal, the Petitioner contends that SCOPS misapplied facts and law in finding insufficient evidence of the "national importance" of his proposed U.S. work and a waiver's benefit to the country.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we agree with SCOPS that he has not established his proposed endeavor'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 Zafar v. U.S. Att'y. Gen.*, 461 F.3d 1357, 1362 (11th Cir. 2006) (explaining that, in employment-based immigration proceedings, employers must generally offer aliens work and file applications for labor certifications on their behalf.)

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 earned a bachelor's degree in business administration in his home country of Brazil and has operated a car dealership and parking facilities in that nation for more than 10 years. He stated that his car dealership has 40 locations and that his parking companies employ a total of about 100 people and manage more than 10,000 parking spaces at office buildings, condominiums, parking garages, and airports.

The Petitioner states his intent to expand his business operations to the United States by opening vehicle selling/trading dealerships and intelligent parking facilities, and providing parking consulting services. He states that his proposed U.S. parking operations would use digital signage and sensor technology to monitor parking space availability and communicate the information in "real time" to drivers. By reducing the time motorists spend searching for parking, he states that his U.S. businesses would improve traffic flow, maximize parking availability, ensure safety, comply with regulations, promote "sustainable mobility," reduce carbon emissions and traffic congestion, and free up land for more meaningful uses.

The record supports SCOPS' findings that:

- The Petitioner's proposed endeavor has substantial merit, satisfying part of the *Dhanasar* framework's first prong; and
- He is well positioned to advance the endeavor, meeting the framework's second prong.[1]

[1] The record does not support SCOPS' conclusion that the Petitioner qualifies for EB-2 classification as an advanced degree professional. *See* section 203(b)(2)(A) of the Act. SCOPS found him EB-2 eligible because he has the foreign equivalent of a U.S. bachelor's degree followed by five years of progressive experience in the specialty. *See* 8 C.F.R. § 204.5(k)(2) (defining the term "advanced degree"). But the record indicates that his occupation of entrepreneur or general manager does not require the minimum of a bachelor's degree, as he started his business in Brazil about three years before earning

We will next review SCOPS' decision regarding the claimed national importance of the Petitioner's proposed U.S. business. The national importance requirement is the first prong's remaining part in determining national interest under the *Dhanasar* framework.

B. 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).

SCOPS found insufficient evidence that the claimed benefits of the Petitioner's U.S. business would extend beyond its clients to more broadly affect the parking industry or the U.S. economy. SCOPS stated that "the national importance of this work has not been adequately explained or substantiated." SCOPS acknowledged letters from some of the Petitioner's employees and clients, stating his purported past successes in generating sales, maximizing his clients' parking spaces, pleasing his clients and their customers, and increasing his clients' profits. But SCOPS found that the letters did not establish "broad implications" of the Petitioner's proposed undertaking.

The record supports SCOPS' findings. For example, the Petitioner has not demonstrated that his proposed U.S. business would improve or advance the parking industry. He stated that the U.S. organization would "drive innovation and technological development" by using the "Internet of Things" (IoT) sensors, automated payment systems, and data analytics. But he described the parking industry as "competitive," and the record lacks sufficient evidence that the technologies his business intends to use are new to the industry or would improve it.

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his baccalaureate. Thus, the record does not establish that his occupation is a "profession" and therefore that he qualifies as an advanced degree professional. *See* section 203(b)(2)(A) of the Act (making visas available to "members of the professions" holding advanced degrees); 8 C.F.R. § 204.5(k)(2) (defining the term "profession" to include "any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation"); *see also* 6 *USCIS Policy Manual* F.5(D)(1) ("[T]he occupation underlying the endeavor must also require a bachelor's degree for entry into the occupation.") SCOPS did not notify the Petitioner of this potential denial ground. Thus, we will not dismiss the appeal on this basis. But, in any future filings in this matter, the Petitioner must demonstrate his qualifications for EB-2 eligibility as an advanced degree professional as he claims.

On appeal, the Petitioner contends that his "comprehensive" business plan details how his endeavor would boost the regional and U.S. economy. He notes his business's initial proposed location in a "HUBZone," a "historically underutilized business" area. *See* U.S. Small Bus. Admin., "HUBZone Program," www.sba.gov/federal-contracting/contracting-assistance-programs/hubzone-program. He states that his business would use resources and services within that community, "fostering economic activity and enhancing the area's infrastructure."

As previously stated, "significant potential to employ U.S. workers or ... other substantial positive economic effects" can demonstrate national importance, "particularly [if the effects occur] in an economically depressed area." *Matter of Dhanasar*, 26 I&N Dec. at 890. The Petitioner, however, has not demonstrated that a "historically underutilized business zone" (HUBZone) equates to "an economically depressed area" as stated in *Dhanasar*. Also, his evidence does not establish that his U.S. organization would generate enough economic benefits to substantially boost the national, regional, or HUBZone economies. The business plan states that the organization would initially provide services in a large California city and later expand its operations to other metropolitan areas across the United States. By the end of the organization's fifth year, the plan projects the business's generation of about $2 million in revenues and employment of 15 people, including the Petitioner. He has not sufficiently explained or documented how the business's estimated revenue and employee levels reflect substantial boosts to the national, regional or HUBZone economies. He also has not identified when and to what other U.S. regions the business would expand. Nor has he indicated the number of regions to which the organization would expand or its projected revenue and employee levels in those areas.

Also, the Petitioner has not demonstrated the reliability of the business plan's projections. The plan indicates that it bases its estimates on the experiences of the Petitioner's Brazilian businesses. "Drawing from his extensive experience and success in the Brazilian market," the plan states, "[the Petitioner] aims to replicate his achievements on American soil." But the Petitioner provided insufficient financial information about his Brazilian companies and their purported growth to support the plan's U.S. projections. He submitted letters from his foreign businesses' accountants, indicating his annual salaries from 2021 through 2023 and the companies' monthly invoice amounts from October 2022 to September 2023. But the record lacks information about the companies' expenses during the corresponding periods. Thus, the record does not provide a complete financial picture of his Brazilian companies. Further, the business plan underestimates the wages the U.S. organization would have to pay its employees. The plan estimates that, in the initial location, each of four attendants/cashiers would receive $30,000 a year and each of three valets would earn $35,000 a year. But online government information states the minimum wage in that California city as $17.25 an hour, or, based on a 40-hour work week, $35,880 a year. *See* [redacted], Office of Lab. Standards & Enf't, "Frequently Asked Questions," www[redacted] Thus, the Petitioner's U.S. business may legally have to pay its staff more than estimated, and the record lacks financial information from his Brazilian companies to corroborate the U.S. business plan's projections.

The Petitioner notes that SCOPS' decision mentions many of his proposed endeavor's benefits, including: job creation; traffic improvement; and development of underused land. But the Petitioner states: "Despite recognizing that my endeavor meets several critical elements of national interest, the

decision ultimately concludes – with generic and unsupported reasoning – that the endeavor is not nationally important. This contradiction is both confusing and deeply concerning."

We do not find SCOPS' conclusion, however, to be confusing or contradictory. A proposed endeavor can offer many benefits but still lack national importance. The first prong of our *Dhanasar* framework recognizes this dichotomy. The first prong requires a petitioner to show that their specific proposed endeavor would not only have appreciable benefits (i.e., substantial merit) but also national importance. The Petitioner has established benefits of his specific proposed venture. But he has not demonstrated the undertaking's purported national significance. National importance requires more than showing that an endeavor would merely contribute to an important national cause or goal. Rather, national importance requires demonstrating that a specific, meritorious venture – by itself – would have national implications. *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.")

The Petitioner notes his submission of an expert opinion finding his proposed U.S. business to be nationally important. For example, the opinion – from a U.S. associate professor of entrepreneurship and innovation – states: "[The Petitioner]'s proposed endeavor has significant potential to generate jobs and tax revenue, employ U.S. workers, provide essential services for similar businesses as a consultant, and transfer knowledge and skills to U.S. workers."

The expert testimony, however, does not establish the claimed national importance of the Petitioner's proposed U.S. business. USCIS makes the final determination regarding eligibility for a requested benefit. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). The Agency may reject or afford lesser evidentiary weight to expert testimony that conflicts with other information or "is in any way questionable." *Id.* Here, the expert opinion states various benefits of the Petitioner's proposed U.S. business. But the opinion does not focus on the venture or explain how it would – by itself – substantially affect the parking industry or the national, regional, or HUBZone economies. The expert opinion therefore does not demonstrate the purported national importance of the Petitioner's proposed endeavor.

The Petitioner also argues that he would: "provide opportunities for intellectual and financial growth to my U.S. employees;" "conduct research into local characteristics, traffic patterns, and nearby parking infrastructure to design smart, adaptive solutions;" and "provide shuttle vans that will transport individuals from our parking locations to major transportation hubs." But the record lacks details about these particular initiatives sufficient to demonstrate that they would have national importance, as opposed to merely contributing to worthy causes or goals.

The Petitioner further states that his "professional background demonstrates that I am fully capable of implementing in the U.S. the same standards and services I have successfully delivered in Brazil." This argument, however, does not relate to his endeavor's purported national importance, but rather to the *Dhanasar* framework's second prong: whether he is "well positioned" to advance his proposed endeavor. As previously indicated, the Petitioner met that prong.

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

C. A Waiver's Benefits to the United States

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 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").

III. CONCLUSION

The Petitioner has not established that his specific proposed venture 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 opinion'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.