U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39274963

Date: SEPT. 24, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a human resources (HR) 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 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.*; *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 she did not demonstrate that a job-offer waiver would serve the national interest. On appeal, the Petitioner contends that SCOPS misapplied legal standards and misevaluated evidence in finding insufficient proof that:

- Her proposed U.S. work has "substantial merit" and "national importance;"
- She is "well-positioned" to advance the endeavor; and
- A waiver would ultimately benefit the United States.

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 conclude that she has established the substantial merit of her proposed U.S. endeavor but not its 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) (discussing the usual employment-based immigration process). 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 Her Proposed Endeavor

The record shows that universities in the Petitioner's home country of Venezuela awarded her a bachelor's degree in managerial and administrative sciences and a master's degree in educational management. She documented that she has about 20 years' employment experience in administrative roles involving payroll processing, HR management, and team coordination.

The Petitioner proposes to establish her own HR consulting firm in the United States, focusing on serving small businesses, start-up companies, and entrepreneurs. She states that her business would initially provide services in Florida but later nationwide. In her business plan, she stated that her firm would "empower organizations, businesses, and communities to enhance workforce efficiency, employee engagement, and organizational growth through advanced HR solutions."

B. EB-2 Eligibility

The record supports SCOPS' finding that the Petitioner qualifies for EB-2 classification as an advanced degree professional. *See* 8 C.F.R. § 204.5(k)(2) (defining the term "advanced degree" to include "any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate"). We will next review her national interest waiver request.

C. Substantial Merit

This requirement "focuses on the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. A venture's merit can be shown "in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education." *Id.* To establish

an endeavor's substantial merit, evidence need not necessarily demonstrate that the undertaking has the potential to create significant economic benefits. *Id.* "For example, endeavors related to research, pure science, and the furtherance of human knowledge may qualify, whether or not the potential accomplishments in those fields are likely to translate into economic benefits for the United States." *Id.*

On appeal, the Petitioner notes that SCOPS' decision states contradictory conclusions regarding the substantial merit of her proposed endeavor. On page 5, the decision states: "The documentary evidence submitted does not support the self-petitioner's statements that the proposed endeavor has substantial merit in an area such as business, entrepreneurialism, science, technology, culture, health, education, the arts, or social sciences." On page 13, however, the opinion states:

> *While the evidence establishes that the self-petitioner's proposed endeavor of providing consulting services to small and medium-size businesses has substantial merit*, the evidence does not establish that the proposed endeavor has national importance; [the Petitioner] is well-positioned to advance the proposed endeavor and on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

(emphasis added).

The Petitioner argues that the decision's favorable conclusion on page 13 means that SCOPS "recognize[d] the substantial merit of the endeavor." But the contexts of the contradictory conclusions demonstrate that SCOPS found insufficient evidence that the Petitioner's proposed endeavor has substantial merit. The favorable finding on page 13 follows an unrelated discussion of the *Dhanasar* framework's third prong, falling under the section entitled "Whether, On Balance, It Would be Beneficial to the United States to Waive the Requirements of a Job Offer, and Thus of a Labor Certification." In contrast, the negative finding on page 5 follows a related discussion of her endeavor's merits and comes under the section entitled "The Proposed Endeavor's Substantial Merits." Thus, the statements' contexts indicate that the favorable statement on page 13 was harmless error. *See generally Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing cases regarding harmless or scrivener's errors). We therefore find that, as detailed on page 5 of the decision, SCOPS determined that the Petitioner did not meet the substantial merits requirement.

SCOPS also found that, in response to its request for additional evidence (RFE), the Petitioner introduced a "new endeavor." SCOPS stated that, in her initial filing, she proposed to work as an HR management consultant in the United States. But SCOPS found that her RFE response changed the proposal to providing HR consulting services for small businesses, start-up companies, and entrepreneurs and establishing her own U.S. consulting business.

A preponderance of the evidence, however, supports the Petitioner's claim that she did not change her endeavor. Her initial filing indicated that her HR consulting services would focus on small businesses. The filing stated that she would design strategies to promote worker well-being and reduce labor conflicts, "especially within the small businesses, startups, and entrepreneurs sector." The filing also stated that the Petitioner would "proactively impact the economic infrastructure of small businesses, startups, and entrepreneurs by leveraging her in-depth knowledge of human resources and Business

Administration." Further, the filing included copies of reports and articles about the economic importance of U.S. small businesses. We could not find a clear statement in the initial filing that she would establish her own HR consulting business. But, in discussing a waiver's purported benefits to the United States, the filing indicated that she would provide consulting services to multiple businesses. The filing asserted that "not allowing [her] to work freely but rather for only one provider [a labor certification employer] could be detrimental" to U.S. interests. Thus, a preponderance of the evidence indicates that, since the initial filing, the Petitioner intended to provide HR consulting services to small businesses through her own U.S. consultancy.

Also contrary to SCOPS' finding, the record demonstrates that the Petitioner's endeavor has substantial merit. She submitted evidence that U.S. small businesses create many jobs and innovations. Thus, by helping small companies operate their businesses more efficiently, her proposed HR consulting endeavor could increase the number of jobs for U.S. workers and the nation's productivity.

The Petitioner has demonstrated that her proposed endeavor has substantial merit. We will therefore withdraw SCOPS' contrary finding.

D. National Importance

When determining whether a proposed endeavor has national importance, USCIS must again 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 concluded that "the petitioner has not offered sufficient information and evidence to demonstrate that the prospective impact of the proposed endeavor rises to the level of national importance." SCOPS stated:

> USCIS cannot conclude that the potential prospective impact of the petitioner's specific proposed endeavor would have any implications beyond the business, its employees and clients … to impact the field, industry, or the economy more broadly at a level commensurate with national importance.

SCOPS found insufficient evidence "that the area where the company intends to operate is economically depressed, or that the specific proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects." SCOPS also found insufficient evidence "that her proposed endeavor has national or even global implications within a particular field or industry."

On appeal, the Petitioner contends that her business plan, submitted in her RFE response, "delineates her strategic objectives and the anticipated positive impacts of the endeavor." The business plan states that her firm would employ three people in its first operating year and, by its fifth year, 20.[1] Over the same period, the plan projects annual revenues rising from $150,000 to $517,244.[2]

The Petitioner's business plan, however, does not explain how a firm with those employee and revenue levels would substantially affect the national or even regional economy. The plan states that the business would first provide services to "economically underserved areas of Florida" and identifies one such area. But the plan does not explain how the business would benefit those underserved areas, nor does the Petitioner document that the areas are "economically depressed," as stated in *Dhanasar*. Further, the business plan does not demonstrate, or even assert, that the firm's services represent advancements in the HR consulting field.

The Petitioner's RFE response also included an expert opinion letter, finding that her proposed U.S. endeavor has national importance. The letter, from a U.S. associate professor of marketing, states that the Petitioner's business would "bridge critical gaps in HR consulting and organizational development, providing tailored services to businesses in need of cost-effective, high-impact solutions to manage their workforce efficiently and remain competitive in today's dynamic economy." The letter states: "By addressing the unique challenges faced by emerging enterprises, the endeavor aims to enhance organizational efficiency, compliance, and employee satisfaction, thereby contributing to economic growth and business sustainability on a broader scale." The letter also states that the business would promote "employee well-being, which is essential for societal welfare," and that the firm's proposed services "align with several national initiatives aimed at enhancing workforce development and supporting small businesses."

But merely contributing to the national economy or worthy national causes or goals does not demonstrate a proposed endeavor's national importance. The expert opinion letter does not explain how the Petitioner's specific proposed venture – by itself – has 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.") Assuming that the Petitioner's business would provide all the benefits stated in the expert's letter, the record does not establish that the firm, on its own, would serve and benefit enough clients to substantially affect the national economy or U.S. societal welfare.

[1] Parts of the business plan also indicate that the Petitioner's firm would have four employees in its first operating year. But the plan does not detail the role or position of the fourth employee.

[2] The business plan includes "pessimistic" and "optimistic" revenue projections. We cite the optimistic projections. Over the same five-year period, the plan's pessimistic annual revenue projections run from $100,000 to $369,460.

The Petitioner also points to recommendation letters that she submitted, which she claims attest to "the groundbreaking merit" of her proposed work. She asserts: "These letters are pivotal in corroborating the value and national significance of her contributions to her field."

The five recommendation letters are from officials of her current and former employers, praising her work, skills, commitment, and professionalism.[3] Contrary to the Petitioner's assertion, however, the letters do not refer to anything "groundbreaking" in her performance or indicate that her contributions to her field have national significance.

The Petitioner further argues that articles and reports she submitted are "integral in substantiating the … national relevance and importance of her proposed endeavor." The articles and reports, however, largely concern the HR consulting field and the economic significance of small U.S. businesses. The publications speak to the importance of small businesses and the Petitioner's field. But the publications do not focus on her specific proposed endeavor or demonstrate its national significance.

The Petitioner cites statistics about the job-creating abilities of U.S. small companies and discusses their reported struggles with HR aspects of their businesses. She argues that her proposed consulting services would optimize small business productivity and U.S. societal welfare and align with national government initiatives. None of these statistics or arguments, however, establishes that the Petitioner's specific proposed endeavor – by itself – would generate enough benefits to boost the economy or societal welfare in a nationally significant way.

The Petitioner has not demonstrated the claimed national importance of her proposed endeavor. We will therefore affirm the petition's denial on this ground.

E. Remaining Issues

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 her arguments regarding her positioning to advance her proposed endeavor and 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 demonstrated that her proposed endeavor has substantial merit. But she has not established its claimed national importance. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.

NOTICE: This constitutes 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

[3] The Petitioner's RFE response indicated its inclusion of a sixth recommendation letter. The record includes a resume of the purported letter's author. But the record lacks a copy of the letter. Rather, the designated exhibit includes a second copy of another recommendation letter.

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 future U.S. visas or other immigration benefits.