U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38502772

Date: SEP. 25, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 the Petitioner 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 he or she is an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.[1] 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

If a petitioner establishes eligibility for the underlying EB-2 classification, he or she must then demonstrate that he or she merits 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

[1] Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

that U.S. Citizenship and Immigration Services (USCIS) may, as a matter of discretion,[2] 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
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Petitioner intends to work in the United States for a company, like Amazon Web Services, or LinkedIn (among other potential employers)[3] to contribute to the field of "Information Technology [IT] and Program and Project Management." The Petitioner states that as an IT professional, he will implement "strategic initiatives with a focus on technological advancement and operational efficiency" as well as lead the field of project management to adopt emerging technologies such as artificial intelligence (AI), and also collaborate with U.S. educational institutions to "enrich technology education programs" and reduce the STEM workforce gap by "engag[ing] in educational initiatives like workshops and lectures in schools, universities, and local communities." The Petitioner asserts his proposed endeavor will strengthen the United States' operational efficiency, digital transformation, and U.S. competitiveness because his endeavor will introduce innovative project management practices, optimize business processes, and through his education initiatives, he will empower the workforce with essential skills for success in a technologically evolving landscape. The Petitioner also asserts that through his professional contacts, he aims to promote U.S. products and services in Latin American markets, and that the economic impact stemming from his proposed endeavor will be greater than that of a small city.[4]

SCOPS issued a request for additional evidence (RFE) notifying the Petitioner that although he was eligible for EB-2 classification as an advanced degree professional, he had not established any of the three *Dhanasar* prongs for a discretionary national interest waiver. In the RFE, SCOPS also provided the Petitioner with a list of documents that he could provide to satisfy his burden. Following the Petitioner's RFE response, SCOPS denied his national interest waiver request as a matter of discretion, concluding that although the Petitioner established the substantial merit of his proposed endeavor, he did not establish its national importance, or that he is well-positioned to advance his proposed endeavor, or that it would be beneficial to the United States to waive the requirements of a job offer. We agree with SCOPS that the evidence establishes the Petitioner is an advanced degree professional and that his endeavor to work as a project manager for a U.S. entity is of substantial merit. As such, the issue on appeal regarding *Dhanasar*'s first prong is whether the Petitioner satisfied his burden to establish his endeavor is of national importance as contemplated by *Dhanasar*.

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[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).

[3] The record includes emails establishing that the Petitioner has applied for and been considered for positions at several companies in the United States and one in Mexico. However, while a job offer is not required, none of the emails contain a job offer or commitment to employ him in the United States.

[4] While we may not discuss every document submitted, we have reviewed and considered each one for relevance, probative value and credibility, consistent with the precedent decision in *Matter of Chawathe*, 25 I&N Dec. 369.

In determining the Petitioner did not establish that his proposed endeavor met the national importance element of the first prong of the *Dhanasar* framework, SCOPS considered the evidence to establish the endeavor's "potential prospective impact," and determined the endeavor did not stand to sufficiently extend beyond the companies he will work for to impact "the U.S. economy or [his] industry more broadly at a level commensurate with national importance."[5] We agree for the reasons discussed below.

When determining the national importance of a proposed endeavor, the relevant question is not the importance of the industry, sector, or profession in which the individual will work; rather, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. 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.* Additionally, "[a]n endeavor that has significant potential to employ U.S. workers" or "other substantial positive economic effects, particularly in an economically depressed area," may have national importance. *Id* at 890. Moreover, if the record demonstrates that a proposed endeavor has the significant potential to contribute to the advancement of a valuable technology or field of study, it may rise to the level of national importance. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual. Regarding an endeavor in a STEM field, national importance may be found if the endeavor contributes to U.S. competitiveness or national security, and/or if the endeavor will help the United States remain ahead of strategic competitors or current and potential adversaries and/or contribute to our nation's achieving or maintaining technological leadership or peer status among allies and partners. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(2).

On appeal, the Petitioner asserts that his proposed endeavor has national importance based on its potential to have substantial economic effects. He cites to data provided by the Economic Policy Institute (EPI), which finds that for every "1 million dollars in final demand in the U.S. computer systems design and related services industry, 4.03 direct jobs and 11.43 indirect jobs are generated." He also asserts that based on the EPI's employment multipliers measures, hiring 100 IT professionals will create 200 or 300 jobs "in the broader economy," as well as an increased demand for hardware, software and consulting services, which will create additional jobs in manufacturing, supply chain, and third-party service providers. The Petitioner further asserts that within five years, his endeavor will create $66 million in economic impact, and 296 direct jobs, which would translate to over 360.7 supplier jobs, 401.6 induced jobs, and 762.3 indirect jobs, for a total of 1524.6 jobs according to the EPI data. However, while the data illustrates the size and economic impact of the IT industry as a whole, it does not address the potential economic effects of the specific endeavor the Petitioner proposes to undertake. And, as noted, the importance of an endeavor is determined by its potential prospective impact, not by the importance of the industry or occupation it involves. *See Matter of Dhanasar*, 26 I&N Dec. at 889-890.

[5] We acknowledge SCOPS misstated the Petitioner's proposed endeavor was to work in the "furniture industry." However, because SCOPS otherwise correctly determined the endeavor does not sufficiently extend beyond the Petitioner's individual clients or prospective employers, a remand of the matter is not necessary. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing to *Japarkulova v. Holder*, 615 F.3d 696, 701 (6th Cir. 2010) (standing for the proposition that an error is harmless where there is no reason to believe that a remand might lead to a different result).

The Petitioner's assertion that his endeavor is of national importance because it will reduce the STEM workforce gap in the United States is unpersuasive. In general, proposing to work in an occupation with a national shortage or to serve in a collaborative capacity in a field that suffers from a shortage of workers is insufficient to demonstrate that an endeavor has national importance. *See generally*, USCIS Policy Alert PA-2025-03, *Second Preference Eligibility for National Interest Waiver Petitions 13* (Jan. 15, 2025), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250115-Employment-BasedNationalInterestWaivers.pdf (USCIS Policy Alert). Here, the Petitioner has not established how adding one IT professional to the United States workforce will reduce the STEM workforce gap at a level commensurate with national importance as contemplated by *Dhanasar*. Further, the record does not establish that the Petitioner's endeavor will specifically create more IT professionals such that he can claim the endeavor will have such an impact on our documented STEM workforce gap.

Throughout the record, the Petitioner points to his background, education, and experience in his field. We acknowledge the Petitioner has previously worked as a senior project manager for various clients. However, the Petitioner's knowledge, skills, and experience relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *See Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the specific endeavor has national importance under *Dhanasar*'s first prong. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work.

The Petitioner emphasizes on appeal that the proposed endeavor aligns with various government initiatives related to infrastructure, cybersecurity, AI, and using AI to ensure our national security and protect individuals and organizations from money laundering schemes. However, the endeavor's focus on the identified initiatives of government concern are tangential. As such, there is insufficient evidence to establish his endeavor will impact these government initiatives at a level commensurate with the national importance standard contemplated by *Dhanasar*. Likewise, while we acknowledge the importance of the field of project management and IT services in our economy, the Petitioner has not established his proposed endeavor will have a broad impact on his field such that it could be considered of national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889. Moreover, although the endeavor involves STEM, the record does not establish that the endeavor will lead to advancements in new valuable technology or contribute to the U.S.'s competitiveness or national security by helping the U.S. remain ahead of strategic competitors or current and potential adversaries and/or contribute to our nation's achieving or maintaining technology leadership or peer status among allies and partners. We acknowledge, as SCOPS also did, that the Petitioner's endeavor may be valuable to his employers and their customers, however that alone is insufficient to establish an endeavor's national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 893 (finding that a STEM teacher's proposed endeavor had substantial merit in relation to U.S. educational initiatives, but that the record did not establish the teaching activities would impact the field of education more broadly to establish its national importance.)

The Petitioner asserts SCOPS ignored the multiple supporting letters from colleagues and professionals in his field, and he emphasizes that these letters establish his endeavor's national importance. We acknowledge these letters are generally complimentary of the Petitioner's skills and

track record as a project manager; many of these letters corroborate the Petitioner's claim that his performance as a project manager led to improved efficiencies, cost savings, and that in the opinion of these writers, his endeavor will drive innovation and enhance U.S. competitiveness and economic growth. However, the letters do not establish the wider significance of his endeavor beyond the potential benefits to his future employers. By statute, individuals who "will substantially benefit prospectively the national economy" are, nevertheless, subject to the job offer and labor certification requirement. Section 203(b)(2)(A) of the Act. Also, "an individual cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his field of expertise." *Matter of Dhanasar*, 26 I&N Dec. at 886 n.3. Thus, while the letters generally corroborate his prior work experience, and his exemplary past performance, they are insufficient to establish his endeavor's national importance.

The Petitioner provided an expert opinion letter by a teaching professor in electrical engineering and computer science at [redacted] who writes that the IT sector will continue to grow in 2024, and that the Petitioner's contributions are to an "industry that is so very crucial for our technology sector and digital transformation." The professor further explains that the role of project management professionals in the IT sector goes beyond the successful execution of projects and shapes the technology landscape by influencing various aspects of society, from economic growth to healthcare and improvements in education. This letter, while helpful in establishing the endeavor's merit, does not establish its national importance because it relies on the general importance of project managers and the IT sector to our economy. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (stating that USCIS "is responsible for making the final determination regarding a beneficiary's eligibility for the benefit sought").

The Petitioner asserts that a letter provided by a partner at a Maine-based company supports his endeavor's national importance. This letter purports that the endeavor's impact "transcends the immediate benefits to his employers and clients, holding significant national and international implications across various sectors of the U.S. economy." The letter goes on to describe the Petitioner's work experience and how the "IT and digital transformation sectors are among the fastest-growing fields globally." To bolster these claims, the letter describes the Petitioner's past experience and professional successes. In general, the letter echoes many of the Petitioner's assertions regarding the impact that will flow from his endeavor. As a matter of discretion, we may use opinion statements submitted by a petitioner as advisory. *See id.* As such, because the writer's opinion is primarily based on the Petitioner's past work experience and general assertions of his endeavor's national importance, the writer's conclusion is not sufficiently probative to establish the endeavor's prospective impact, or national importance. *Id.*

Accordingly, for the stated reasons above, we conclude that the Petitioner has not established the national importance of the proposed endeavor and therefore does not meet the first *Dhanasar* prong. The preponderance of the evidence standard requires that the evidence demonstrate that the Petitioner's claim is probably true, where the determination of truth is made based on the factual circumstances of each individual case. *Matter of Chawathe*, 25 I&N Dec. at 376. Here, the Petitioner has not provided sufficient evidence to satisfy his burden, by a preponderance of the evidence. *Id.*

As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the second and third prongs of

Dhanasar's analytical framework. *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 requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established 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.