U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35230139

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

Id.

[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).

II. ANALYSIS

SCOPS determined that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional. The remaining issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement, and thus a labor certification, would be in the national interest. For the reasons below, we agree that the Petitioner did not demonstrate eligibility under the *Dhanasar* framework.

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.* In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.*

The Petitioner intends to work as a construction manager for his own company and utilize his civil engineering degree and professional experience to "execute performance with the highest reliability, ergonomics, and durability to avoid downtime, minimize risks for operators, and improve production quality." He indicates the following: he "enhances the likelihood of project success by leveraging his unique skill set. He not only supervises but actively participates in project development and construction" and his "involvement contributes to optimizing the U.S. construction industry, marked by astute management, effective project controls, and transparent reporting methods." In his proposed role as a construction manager, he "will continue to make a substantial contribution towards completing large-scale construction projects[;] creating job opportunities[;] and supporting government initiatives aimed at protecting the U.S. infrastructure, promoting sustainability, and safeguarding minority interests." He will "advance the development of a safer and more reliable infrastructure network by implementing top-quality standards, risk prevention measures, and eco-friendly practices." He will "introduce innovative construction project management strategies" that are "designed to conserve time and resources for a wide array of construction initiatives, aligning with" his company's commitment to excellence in design, remodeling, and new construction across Florida. His proposed endeavor "transcends local boundaries, offering national and potentially global implications in the field of sustainable building practices" and his construction management initiative directly impacts the economic growth of the U.S. economy, "primarily by offering employment opportunities to U.S. workers." His initiative "has the potential to improve living standards, promote social equity, and contribute to the health and well-being of communities"; his work "directly aligns with matters of national importance, as highlighted by various government entities"; and his focus on "sustainable construction and affordable housing addresses key issues at the heart of national initiatives, including environmental conservation, energy independence, and social welfare."

In support of his eligibility, the Petitioner submitted a statement of proposed employment, recommendation letters, industry articles and reports, and documents related to his education and professional experience. SCOPS determined, in part, that the Petitioner's initial filing did not demonstrate the proposed endeavor's national importance and issued a request for evidence. In response, the Petitioner submitted an updated personal statement and indicated that his proposed endeavor consists of "continuing to offer professional construction and project services through [his] own U.S. company" and the "task of [his] organization stands within meeting all construction

requirements of clients in the country including those of Florida." He will "direct engineering activities"; "ensure regulatory compliance"; "manage and direct construction, operation, and maintenance"; "provide technical expertise and advice"; and "analyze survey reports, maps, drawings, blueprints, and more." His "primary aim is to further enhance [his] expertise" and "drive meaningful advancements within the American construction industry. Through [his] current job, [he is] at the forefront of projects that leave a lasting positive impact and significantly bolster the U.S. infrastructure system, ultimately enhancing economic efficiency and the safety of the American populace." He also provided an expert opinion letter; additional recommendation letters; articles; research reports; information regarding the Petitioner's previous construction projects while working as a construction manager; and references to government policies, legal guidance, and initiatives.

SCOPS concluded that though the Petitioner's proposed endeavor had substantial merit, the record contained insufficient evidence to demonstrate that the prospective impact of his endeavor rises to the level of national importance. SCOPS found that the Petitioner did not provide sufficient evidence to establish the importance of his proposed endeavor, rather than the significance of his field, or that the endeavor has significant potential to offer substantial positive economic effects for the regional or national economy as contemplated by *Matter of Dhanasar*. On appeal, the Petitioner claims that SCOPS failed to acknowledge U.S. government policy initiatives and legal guidance supporting his proposed endeavor, applied a stricter standard of proof than permissible, disregarded objective and corroborative evidence, and erred by diminishing how business owners like him provide direct and indirect benefits to the country and other businesses. He asserts that the record establishes by a preponderance of the evidence the national importance of his endeavor.

With respect to the standard of proof in this matter, a petitioner must establish that they meet each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. In other words, a petitioner must show that what they claim is "more likely than not" or "probably" true. To determine whether a petitioner has met their burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, SCOPS properly analyzed the Petitioner's documentation and weighed the evidence to evaluate whether he had demonstrated, by a preponderance of the evidence, that he meets the first prong of the *Dhanasar* framework. Further, the record supports SCOPS' determination that the Petitioner did not establish the national importance of his proposed endeavor.

In determining 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." *Dhanasar* at 889. Generally, we look to evidence documenting the "potential prospective impact" of a petitioner's work. While the submitted recommendation letters, an expert opinion letter, and other documents address the Petitioner's professional experience and accomplishments, his skills, expertise, and abilities relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor he proposes to undertake has national importance under *Dhanasar*'s first prong. Additionally, the documents and letters failed to establish that the Petitioner's specific endeavor has national implications, significant potential to employ U.S. workers, or otherwise offers substantial positive economic effects for the United States.

Although the proposed endeavor as a construction manager for his own company focusing on sustainable construction and affordable housing as described above has merit, the evidence does not demonstrate that it would have significant potential to employ U.S. workers, have substantial positive economic impact in this country, broadly impact the industry on a national or global level beyond his prospective clients, or otherwise have broader economic or societal implications rising to the level of national importance. *Dhanasar* at 889-890. For example, the record lacks specific information with supporting documentation to show how his business will operate, the number of employees, sources of funding, and other details to show the potential prospective impact of his proposed endeavor. In reasserting that his proposed endeavor has national importance, the Petitioner refers to U.S. government initiatives, non-precedent appellate decisions, articles, and research reports. We acknowledge the documents the Petitioner provided regarding the importance of the sustainable construction and infrastructure resilience industry in the United States. Though the record may reflect the importance of the industry or occupation where the Petitioner will work, the submitted evidence does not demonstrate the specific impact of his proposed endeavor. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policymanual ("The term 'endeavor' is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation.") Employment in an occupation does not constitute an endeavor for the purposes of these proceedings. *Id.*

The Petitioner also reiterates that his educational background and proposed endeavor fall within a science, technology, engineering, and mathematics ("STEM") field. However, the record does not contain sufficient evidence that his specific proposed endeavor of offering professional construction and project services through his own U.S. company has national importance. *See* 6 *USCIS Policy Manual* F.5(D)(2) (stating that with respect to the first prong, as in all cases, the evidence still must show that a STEM endeavor has both substantial merit and national importance). Here, the record does not establish that his proposed endeavor has broader implications for the related industries, specifically furthers STEM objectives in a nationally significant manner, or otherwise show national importance as contemplated by *Dhanasar*.

As the record does not establish the national importance of the proposed endeavor as required by *Dhanasar*, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of the Petitioner's eligibility as outlined in *Dhanasar*, therefore, would serve no meaningful purpose.[2]

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.

[2] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).