In Re: 37894789 Date: APRIL 18, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an airline pilot, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability, 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 Petitioner did not qualify for EB-2 classification and 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

In his professional plan, the Petitioner states his proposed endeavor is to "work in the United States as a pilot in the Aviation Industry." The Petitioner adds that he will "work as a pilot and ground instructor in a U.S. company in the Aviation Industry to help airlines to maintain safe flights and help with the pilot shortage." On appeal, the Petitioner states his proposed endeavor focuses on advanced pilot training and improving aviation safety through specialized training programs.

A. EB-2 Classification

SCOPS determined the Petitioner was not eligible for EB-2 classification as an individual of exceptional ability. As the Petitioner is not eligible for a national interest waiver for the reasons discussed below, we do not reach and hereby reserve our determination of his eligibility for EB-2 classification. *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").

B. National Interest Waiver: 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. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* 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 other broader implications indicating national importance. *Id.* at 889-90. SCOPS determined the Petitioner did not establish that his work would impact his field beyond his specific employers or have substantial positive economic effects.

On appeal, the Petitioner asserts his proposed endeavor has national importance because it addresses "a critical need for advanced training programs to prepare aviation professionals capable of meeting the high technical and safety standards required in the market." The Petitioner claims that by "contributing [his] expertise and experience to the U.S. aviation sector, [he] will help strengthen training programs, enhance operational safety, and ensure that aviation professionals are well-prepared to meet the demands of this vital industry." However, the Petitioner does not articulate how his work would extend beyond his individual employers, passengers, and trainees to impact the aviation industry more broadly at a level indicative of national importance. *See id.* at 889 (explaining "we look for broader implications").

In a document entitled "Potential Prospective Impact," the Petitioner asserts that his proposed endeavor has national importance because flight instructors and experienced pilots are crucial to overcoming the pilot shortage and barriers to entry into the profession. The Petitioner further claims

"[f]light instructors and pilots play a crucial role in ensuring the safety, efficiency, and reliability of air travel, which directly impacts the daily lives of Americans." The Petitioner also asserts he supports the aviation industry's "economic contribution to regional and national economies," ensuring "the flow of goods around the nation continues uninterrupted," and "supporting the current administration's ongoing efforts to build the resiliency of the supply chain with broad benefits to the economy." The Petitioner does not, however, articulate how his work as a pilot and instructor would extend beyond his individual employers, passengers, and trainees to impact these issues more broadly in a manner commensurate with national importance.

The Petitioner also claims his proposed endeavor will directly and indirectly create jobs because he will train 480 pilots in the first year, increasing to 524 in the fifth year. The Petitioner asserts his proposed endeavor will generate 1,333 indirect and induced jobs the first year, increasing to 1,455 indirect and induced jobs in the fifth year. The Petitioner did not provide any data, projections, or other bases for these figures. The Petitioner also does not indicate that he will employ pilots or any other individuals himself. Accordingly, the record does not establish that the Petitioner's proposed endeavor has significant potential to employ U.S. workers.

The Petitioner submitted a letter from T-S-[2], President of [redacted] expressing his opinion that the Petitioner qualifies for a national interest waiver. T-S- asserts the Petitioner's proposed endeavor has significant potential to employ U.S. workers and has other substantial positive economic effects because pilots' "contributions to transportation, trade, job creation, tourism, and technological innovation synergistically foster economic growth and advancement, both locally and nationally." As discussed, the record does not indicate that the Petitioner would employ any individuals and T-S- does not articulate how the Petitioner's work would extend beyond his employers, passengers, and trainees to have substantial economic effects indicative of national importance.

T-S- also claims the Petitioner's proposed endeavor will broadly enhance societal welfare or cultural enrichment because pilots "play multifaceted roles that promote accessibility, emergency response, disaster relief, cultural exchange, economic opportunity, education, scientific advancement, security, interpersonal connections, technological innovation, and environmental sustainability." T-S- does not explain how the Petitioner's work would extend beyond his employers, passengers, and trainees to impact these issues in a manner commensurate with national importance.

T-S- further asserts the Petitioner's proposed endeavor impacts matters that a government entity has described as having national importance or is the subject of national initiatives. He states pilots "participate in a wide range of national projects that collectively influence the future of aviation in the United States" as their involvement "goes beyond the cockpit, affecting laws, safety procedures, instruction, and technology, all of which develop the aviation sector and society at large." While T-S- attests to the important role of pilots on issues of national concern, he does not address the Petitioner's specific proposed endeavor or establish how the Petitioner's proposed endeavor would extend beyond his employers, passengers, and trainees to impact these issues on a level indicative of national importance.

[2] We use initials to protect the privacy of the referenced individual.

The Petitioner submitted additional support letters from employers and colleagues who praise his skills and experience and express confidence in his ability to positively contribute to the aviation industry in the United States. However, these letters do not indicate that any of the Petitioner's proposed training or past accomplishments have national or global implications in his field. *See id.* (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field). The letters also do not establish that the Petitioner's work as a pilot and instructor would extend beyond his employers, passengers, and trainees to impact the aviation industry more broadly in a manner commensurate with national importance. *Cf. id.* at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it related to U.S. strategic interests).

The Petitioner submitted copies of five articles he wrote on various aviation topics. The record does not indicate that any of these articles have been cited by or relied upon by other aviation experts. *Cf. id.* (stating the record included copies of Dhanasar's publications and other materials that cited his work).

In sum, the record does not establish that the Petitioner's proposed endeavor has significant potential to employ U.S. workers, has other substantial positive economic effects, has national or even global implications within the aviation industry, or other broader implications indicating national importance. The Petitioner thus has not demonstrated that he meets the second *Dhanasar* prong.

C. The Remaining *Dhanasar* Prongs

As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of his eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

The Petitioner has not established the national importance of his proposed endeavor and he does not meet the first prong of the *Dhanasar* analytical framework. Consequently, the Petitioner has not demonstrated that he is eligible for or merits a waiver of the job offer and labor certification requirements in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.