U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43632595

Date: AUG. 3, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a pilot and an entrepreneur in the aviation industry, 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).

USCIS denied the petition, concluding that although the Petitioner qualified as an advanced degree professional, he had not established 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or 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, 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 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.

II. ANALYSIS

The Petitioner's proposed endeavor is to continue to work as a pilot and expand his aviation technology company into the United States. According to his business plan, the Petitioner's company, located in [redacted] Florida, "will develop and provide advanced flight planning and navigation software solutions tailored to the needs of general aviation pilots." The Petitioner further explains that the company's main product is a "Flight Planning and Air Navigation App for Pilots."

A. EB-2 Classification

In support, the Petitioner submitted a copy of his *Grau de Bacharel* in aeronautical sciences, along with his academic transcripts. USCIS determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. However, upon de novo review, we disagree. Specifically, the Petitioner's transcript shows that he began his studies in 2005 and completed them in 2008, a period of three years. According to the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education's (EDGE)[2] analysis of university degrees from Brazil, "The *3-year Título de Bacharel/Grau de Bacharel* represents attainment of a level of education comparable to 3 years of university study in the United States."[3] USCIS has long considered a baccalaureate degree as one that requires four years of education. *See Matter of Shah*, 17 I&N Dec. 244, 245 (BIA 1977), see *also Viraj, LLC v. U.S. Atty. Gen.*, 578 F. App's 907, 910 (11th Cir. 2014). Thus, the Petitioner has not established that he holds the foreign equivalent of a U.S. bachelor's degree as required by 8 C.F.R. § 204.5(k)(2).

For the above reasons, the Petitioner has not established by a preponderance of the evidence that he is a member of the professions holding an advanced degree and we withdraw USCIS' determination on this issue.

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[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).

[2] We consider EDGE to be a reliable source of information about foreign credential equivalencies. *See Confluence Intern., Inc. v. Holder,* Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). *See also Viraj, LLC v. Holder,* No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013). For more information, visit https://www.aacrao.org/edge.

[3] *See* https://www.aacrao.org/edge/country/brazil/credential/titulo-de-bacharel-grau-de-bacharel-title-of-bachelor/

B. Substantial Merit and National Importance

We will now address whether the Petitioner has established that a waiver of the job offer requirement, and thus of the labor certification, would be in the national interest.[4]

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* 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.* USCIS determined that the Petitioner's proposed endeavor was of substantial merit, and we agree. However, USCIS concluded that the Petitioner did not establish that his proposed endeavor has national importance.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we noted that, in assessing national importance, "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." *Id.* at 890. We also stated that "[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.*

On appeal, the Petitioner contends USCIS mischaracterized the nature of his endeavor "by reducing it to the operations of a single startup company and its private clientele" and that in two separate sections of the denial, USCIS incorrectly referred to the proposed endeavor "as a software engineer in the field of digital advertising and technology" and "human resources manager." In addition, he asserts that he provided sufficient evidence to establish that his proposed endeavor has national importance, including a detailed business plan and expert opinion letters.

Regarding the Petitioner's contention that USCIS mischaracterized the endeavor, we find that USCIS overall correctly identified the Petitioner's endeavor as "a pilot, aviation executive and technology entrepreneur" and the mention of "software engineer" and "human resources manager" in the decision were, at most, harmless as they had no bearing on the decision. *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 will now discuss the evidence of record in support of national importance. As noted above, the Petitioner references his business plan on appeal. In his business plan, the Petitioner claims he will create 28 in-house jobs, generate over $2 million in payroll expenses, and generate over $17 million in revenue over the first five years of operations. The business plan, however, does not explain how these forecasts were calculated or adequately clarify how these projections will be realized, nor has the Petitioner provided independent evidence or otherwise explained how his business would create jobs at a level that would have a significant impact in a region or have a prospective national impact on a specific field. As such, the record does not demonstrate that the prospective benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by the precedent decision. *Id.* at 890. A

[4] While we do not discuss every piece of evidence individually, we have reviewed and considered each one.

petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376.

In addition, the Petitioner contends USCIS erred in dismissing the expert opinion letters from F-H- and M-P-. Upon review, the authors discuss the proposed endeavor and its claimed benefits. However, the authors' opinions are largely conclusory and do not adequately explain how the Petitioner's work would produce such nationally important impacts. For example, F-H- opines that the Petitioner's proposed endeavor "addresses a real, ongoing, and nationally relevant operation need" and "[e]fforts aimed at improving how aeronautical information is consolidated and applied in operational decision making contribute meaningfully to safer, more consistent flight operations and support the continued advancement of U.S. general and business aviation in the public interest." But the author does not explain how the Petitioner's day-to-day management of his company's operations and its services and products as contemplated by his proposed endeavor rises to the level of national importance. In addition, M-P- speculates that the Petitioner's "continued development and expansion of integrated flight planning and aeronautical information solutions represents a constructive and nationally relevant contribution to U.S. aviation" and "[e]fforts that improve usability and consistency at the operational level address real-world challenges faced daily by pilots and operators and contribute meaningfully to safer and more flight operations across the country." But M-P- does not explain how the Petitioner's work stands to affect his field or industry beyond his company and his immediate clients. The letters from F-H- and M-P- do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work offers broader implications in his field or substantial positive economic effects for our nation that rise to the level of national importance.

We also reviewed the Petitioner's letters of recommendation. The authors praise the Petitioner's abilities and the personal attributes that make him an asset in the aviation industry. For instance, one letter states that the Petitioner's "ability to deal with complex flights and strict security requirements was impressive." Another letter states that the Petitioner's "competence and experience as a pilot and manager not only ensured a high-quality air transportation service, but also opened up new opportunities for the expansion of our business." While the letters evidence the high regard the Petitioner's colleagues have for him and his work, they do not offer persuasive detail concerning the impact of his proposed endeavor or establish how such an impact would extend beyond his future clients. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

As previously noted, 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. While the Petitioner's statements reflect his intention to develop and expand his aviation technology platform for the general aviation sector in the United States, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his company and its clients to impact the field of aviation technology, the aviation industry, societal welfare, or the U.S. economy more broadly at a level commensurate with national importance.

III. CONCLUSION

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address his eligibility under the remaining prongs, and we hereby reserve them. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise ineligible). The burden of proof is on the Petitioner to establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that he has not established eligibility for 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.