U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40290383

Date: AUG. 05, 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 logistics analyst, 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 the record did not establish that the Petitioner qualifies for EB-2 immigrant classification and a national interest waiver of the job offer requirement. 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*.

Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[1] 8 C.F.R. § 204.5(k)(2).

[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.

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,[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 asserts that he qualifies as a member of the professions holding an advanced degree based on his educational credentials obtained in Venezuela. Specifically, the record reflects that he earned a Licenciado en Ciencias y Artes Militares with a specialization in aviation logistics from the [redacted] a Licenciado en Contaduria Publica from [redacted] and a Technico Superior Universitario en Ciencias y Artes Militares. The Petitioner describes the Licenciado en Ciencias y Artes Militares as a bachelor's degree in military science with a specialization in aviation logistics and the Licenciado en Contaduria Publica as a bachelor's degree in accounting, asserting that these degrees provided him with specialized knowledge in logistics, supply chain management, business operations, and financial systems. He maintains that these academic credentials, when considered together with his professional experience, establish that he possesses the educational qualifications required for classification as an advanced degree professional.

In order to show that a petitioner holds a qualifying advanced degree, the petition must be accompanied by "[a]n official academic record showing that the alien has a United States advanced degree or a foreign equivalent degree." 8 C.F.R. § 204.5(k)(3)(i)(A). Alternatively, a petitioner may present "[a]n official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty." 8 C.F.R. § 204.5(k)(3)(i)(B).

Here, the Petitioner submitted copies of foreign degree certificates. However, the record does not contain official academic transcripts or another official academic record identifying the coursework completed, the program of study, or the requirements satisfied for the awarded degrees. Nor did the Petitioner submit a credential evaluation or other competent evidence explaining how the foreign educational credentials compare to degrees awarded in the United States. Without such evidence, the record does not establish that the Petitioner's foreign education constitutes a qualifying advanced degree or the foreign equivalent of a United States baccalaureate degree.

[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).

Even if the Petitioner established possession of a foreign equivalent bachelor's degree, he must also demonstrate at least five years of progressive post-baccalaureate experience in the specialty. USCIS found that the Petitioner did not demonstrate possession of at least five years of progressive, post-baccalaureate experience in his field. To prove qualifying experience, a petitioner must submit letters from former or current employers. 8 C.F.R. § 204.5 (k)(3)(i)(B). The letters must contain the employers' names, addresses, and titles, and specifically describe a beneficiary's job duties. 8 C.F.R. § 204.5(g)(1). "If such evidence is unavailable, other documentation relating to the [noncitizen]'s experience or training will be considered." *Id.*

The Petitioner has not overcome USCIS' finding regarding qualifying experience. The regulation requires evidence that established at least five years for progressive post-baccalaureate experience. USCIS explained that the employment letters submitted into the record did not sufficiently document the petitioner's qualifying experience because they lacked detailed description of the petitioner's duties and responsibilities, progression, and qualifying post-baccalaureate employment. On appeal, the Petitioner argues that recommendation letters should have been afforded greater weight and should have been evaluated collectively. We agree that the letters from employers, colleagues, and business associates may constitute relevant evidence. However, the issue is not whether such letters demonstrate that the Petitioner's experience is well regarded in his profession. Rather, the issue is whether they establish the regulatory requirements governing qualifying progressive post-baccalaureate experience.

Upon review, two of the letters are from individuals who state that they have used the petitioner's shipping company in the United States and describe their positive experience with the petitioner's services. The remaining letters are from retired members of the Venezuelan military who indicate that they worked with the Petitioner during his military career and attest to his professionalism, leadership, and work ethic. Although these letters speak favorably of the Petitioner's character and professional abilities, they do not establish that he possesses at least five years of progressive post-baccalaureate experience in the specialty, as required by 8 C.F.R. § 204.5 (k)(3)(i)(B). For example, the letters do not identify when the Petitioner obtained the qualifying degree, distinguish between experience acquired before and after earning that degree, or describe his duties and increasing levels of responsibility in sufficient detail to demonstrate progressive post-baccalaureate experience. Nor do they provide sufficiently detailed information regarding the Petitioner's qualifying employment, such as complete dates of employment for each position or the nature of the work performed following completion of the qualifying degree. Accordingly, while the letters corroborate that the Petitioner has professional experience and is regarded favorably by former colleagues and clients, they do not satisfy the evidentiary requirements for establishing qualifying progressive post-baccalaureate experience.

We also note that most of the letters are not presented on organizational or employer letterhead. Although the absence of letterhead alone is not dispositive, it diminishes the evidentiary weight of the letters when they are unsupported by official employment records or other corroborating documentation.

On appeal, the Petitioner's arguments do not address the dispositive issue before us that the Petitioner failed to establish eligibility for classification as a member of the professions holding an advanced degree. Instead, the appeal primarily argues that USCIS misapplied the *Dhanasar* framework by failing to consider the evidence under the totality of the circumstances, improperly discounting the

Petitioner's business plan, letters of recommendation, entrepreneurial experience, and other evidence relevant to whether he is well positioned to advance the proposed endeavor and whether a waiver of the job offer required would benefit the United States. However, these arguments address the second and third prongs of the national interest waiver analysis and do not overcome USCIS's finding. Because eligibility for a national interest waiver first requires eligibility for the underlying immigrant classification, the Petitioner's arguments regarding the *Dhanasar* prongs do not overcome USCIS' finding and we need not address those arguments.

III. CONCLUSION

The Petitioner has not established his eligibility for the EB-2 classification as a member of the professions holding an advanced degree, he is therefore ineligible for a national interest waiver. We decline to reach and hereby reserve the issue of the Petitioner's qualification under the three prongs of the *Dhanasar* 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).

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.