U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41502426

Date: FEB. 23, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a mechanical engineer, 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 record did not establish the Petitioner is eligible for or otherwise merits a national interest waiver as a matter of discretion. 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 that they are an advanced 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, 8 U.S.C. § 1101(a)(32),[1] 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. 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.

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[2] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States, and their services in the sciences, arts, professions, or business are sought by an employer in the United States. 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,[3] 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 obtained a bachelor's degree in mechanical engineering from [redacted] n Brazil in 2017, and he previously worked at [redacted] as a maintenance technician from 2015 to 2021. He intends to work in the United States as mechanical engineer.

A. EB-2 Visa Classification

As indicated above, the Petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. *See* section 203(b)(2)(A) of the Act. The Petitioner claimed eligibility for the EB-2 classification as an individual of exceptional ability. However, SCOPS determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional, and we disagree. The record does not show that the Petitioner qualifies for the EB-2 classification as an advanced degree professional.

[2] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

[3] *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).

The regulation at 8 C.F.R. § 204.5(k)(2) states that a U.S. baccalaureate degree or a foreign equivalent degree followed by five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. Therefore, 8 C.F.R. § 204.5(k)(2) requires a petitioner to have the five years of progressive experience after obtaining a bachelor's degree.

Here, the Petitioner obtained a bachelor's degree in mechanical engineering from [redacted] in Brazil on May 11, 2017. The record includes an employment verification letter from the operation director of [redacted] stating that the Petitioner worked for the company as a maintenance technician from February 4, 2015 to June 16, 2021, working 48 hours a week. Although the Petitioner holds a foreign equivalent degree of a U.S. bachelor's degree, the record does not establish that he has five years of progressive experience in the specialty after obtaining his bachelor's degree on May 11, 2017. *See* 8 C.F.R. § 204.5(k)(2). Accordingly, he is not eligible for the EB-2 classification as a member of the professions holding an advanced degree.

On appeal, the Petitioner does not claim eligibility for the EB-2 visa classification as an individual of exceptional ability and does not present supporting evidence. Therefore, we need not reach a decision on whether the Petitioner is eligible for the EB-2 classification as an individual of exceptional ability, and we will reserve this issue for future consideration should the need arise.[4]

B. National Interest Waiver

SCOPS determined that although the Petitioner's proposed endeavor has substantial merit and he is well positioned to advance the proposed endeavor, the Petitioner has not established that his proposed endeavor is of national importance and that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus a labor certification. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer would be in the national interest. For the reasons we will discuss below, we determine that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework. While we may not address each piece of evidence individually, we have reviewed and considered each one.

With respect to his proposed endeavor, the Petitioner plans to establish and manage [redacted] in [redacted], Texas. The Petitioner states that [redacted] will "focus on delivering high-quality industrial maintenance services, process efficiency consulting, and workforce training programs" and will provide "preventive and corrective maintenance, predictive diagnostics, Lean Six Sigma-based consulting, and sustainability solutions, tailored to the needs of manufacturing, construction, and heavy equipment industries."

On appeal, the Petitioner contends that SCOPS did not fully consider his evidence demonstrating the proposed endeavor's national importance, and the record includes "documents showing clear

[4] *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).

connections to critical U.S. needs in industrial maintenance, workforce development, and operational efficiency as well as their prospective impact."

The first prong of the *Dhanasar* analytical framework, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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 whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* An 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.* An 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.* at 890.

The Petitioner asserts that his proposed endeavor to establish and manage [redacted] is "designed to produce broad, positive impact on the United States in four key areas of national importance: Workforce Development, Manufacturing Competitiveness, Climate and Energy Efficiency, and Regional Revitalization." The Petitioner claims that "[t]hrough workforce development, [he] help[s] fill critical skills gaps and advance federal training initiatives," "[t]hrough manufacturing competitiveness, [he] strengthen[s] the productivity and resilience of America's industrial base," "[t]hrough climate and energy efficiency, [he] support[s] national sustainability goals and safe industries," and "through regional revitalization, [he] channel[s] growth into communities that bolster equitable economic expansion."

The record includes industry analyses on engineering services and machinery maintenance and heavy equipment repair services in the United States, the U.S. Small Business Administration (SBA)'s presentation on HUBZone program, the Workforce Innovation and Opportunity Act, Executive Order 14278 and its fact sheet, SBA's Made in America Manufacturing Initiative, the U.S. Economic Development Administration's investment priorities, and infographic on predictive maintenance. The Petitioner also submitted various articles and reports discussing workforce challenges in U.S. manufacturing, the need to expand the U.S. skilled technical workforce, policy implications for effective environmental and operational outcomes, the role of federal strategies in revitalizing the U.S. manufacturing industry, and targeted regional investments to reduce geographic inequality and promote inclusive economic development.

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. *See Dhanasar*, 26 I&N Dec. at 889. The Workforce Innovation and Opportunity Act, Executive Order 14278, federal agencies' initiatives and reports, and various articles and industry reports show the importance of workforce development, manufacturing competitiveness, climate and energy efficiency, and regional revitalization to stimulate the U.S. manufacturing industry and contribute to the U.S. economy. The industry analyses provide general information about the engineering services industry and the machinery maintenance and heavy equipment repair services industry in the United States. However, the submitted documents do not specifically mention the Petitioner's proposed endeavor and do not indicate the government's interest in supporting or promoting the use of the Petitioner's services. In addition, the record does not contain

sufficient information and evidence to establish that his proposed business activities to provide industrial maintenance services, process efficiency consulting, and workforce training programs will have broader implications within the manufacturing, construction, and heavy equipment industries more broadly rather than benefiting his clients. Without sufficient documentary evidence of its broader impact, the Petitioner's proposed endeavor does not meet the national importance element of the first prong of the *Dhanasar* framework. *See id.*

Regarding workforce development, while the Petitioner's plan to provide workforce training programs a[redacted]or transmit his technical knowledge to new professionals in his field has merit, the record does not sufficiently demonstrate that his training or instructional activities offer benefits that extend beyond his trainees or students to impact his field more broadly. *See id.* Likewise, 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. *See id.* at 893.

Additionally, we are not persuaded by the argument that the Petitioner's proposed endeavor has national importance due to the shortage of workers in the U.S. manufacturing industry. The Petitioner has not established tha[redacted] workforce training programs stand to impact or significantly reduce the claimed national shortage. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process. *See* 20 C.F.R. § 656, 8 U.S.C. §§ 1182(a)(5)(A), 1182(p)(1).

The Petitioner provided an expert opinion letter and recommendation letters from various individuals. An expert opinion letter from a professor in the School of Engineering and Computing at[redacted] asserts that "[t]hrough the establishment of a specialized enterprise, [the Petitioner] is uniquely positioned to deliver high-impact outcomes in industrial maintenance and optimization while directly supporting national priorities of infrastructure modernization, sustainability, and technical workforce development." A letter from the chief executive officer of[redacted] states that the Petitioner's work "can lead to substantial improvements in equipment maintenance and the development of a highly skilled workforce - essential factors for driving economic growth and national competitiveness." A letter from a maintenance leader at[redacted] claims that[redacted] business proposal "has the potential to transform traditional industrial practices, enhancing operational efficiency and competitiveness." A letter from a supervisor of electrical maintenance and infrastructure at[redacted] states that the Petitioner's plan "already exhibits transformative potential, proposing not only process optimization but also the development of a highly skilled workforce, capable of enhancing industrial competitiveness." A letter from a maintenance coordinator at[redacted]expresses that the Petitioner's "strong technical background, combined with practical experience in management and process optimization, positions him as a transformative agent who will contribute decisively to the competitiveness and efficiency of the industrial market in the United States." A letter from the chief executive officer of[redacted] asserts that the Petitioner's business plan for[redacted] "reflects [his] ability to merge technical expertise with strategic market insight, contributing to the modernization and competitiveness of the sector."

The opinions of the Petitioner's references are not without weight and have been considered. We may, in our discretion, use advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we are ultimately responsible for

making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of reference letters supporting the petition is not presumptive evidence of eligibility; we may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). Thus, the content of the references' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence that one would expect of an accomplished digital product technical consultant in the field. *Cf. Visinscaia v. Beers*, 4 F.Supp.3d 126, 134-35 (D.D.C. 2013) (concluding that USCIS' decision to give little weight to uncorroborated assertions from professionals in the field was not arbitrary and capricious).

Here, the letters highlight the Petitioner's experience in maintenance systems, process standardization, and operational efficiency in the construction and industrial sectors, expertise in diagnostics, optimization methodologies, and equipment lifecycle management, and ability to implement scalable, sustainable solutions. While the letters discuss the Petitioner's business plan for [redacted] and its potential to improve equipment maintenance, enhance operational efficiency and competitiveness, and develop a highly skilled workforce, the letters do not include sufficient persuasive and corroborating information about the endeavor's impact rising to the level of national importance. *See Dhanasar*, 26 I&N Dec. at 889. The assertions that the Petitioner's proposed endeavor has the potential to improve industrial practices and develop a highly skilled workforce is not sufficient to establish that the Petitioner's proposed endeavor is of national importance. The letters do not offer sufficient information and evidence to demonstrate that the prospective impact of the Petitioner's proposed endeavor rises to the level of national importance. *See id.*

As for the economic and employment benefits that the Petitioner asserts his proposed endeavor will offer, the Petitioner claims that [redacted] will create "a wide-reaching economic impact, generating both direct and indirect employment opportunities" and [redacted] expansion will stimulate "economic activity across various industries, driving innovation, fostering community development, and supporting regional economic resilience." The Petitioner's business plan for [redacted] indicates that by year five, [redacted] is projected to generate over $3,637,402 in sales revenue and make tax contributions of $272,339 to both local and federal governments while supporting at least 156 jobs, including 25 direct jobs, 76 supplier jobs, and 55 induced jobs across multiple industries.

However, the Petitioner has not explained the basis for these financial projections in the business plan, nor does the record contain sufficient evidence supporting these claims. The preponderance of the evidence standard requires that the evidence demonstrates that the petitioner's claim is probably true, where the determination of truth is made based on the factual circumstances of each individual case. *See Matter of Chawathe*, 25 I&N Dec. at 376. In evaluating the evidence, truth is to be determined not by the quantity of evidence alone but by its quality. *See id.* Here, lack of supporting details detracts from the credibility and probative value of the business plan. Even if all the projections in the business plan were realized, the record lacks sufficient evidence demonstrating that [redacted] will have an impact on a particular industry or the U.S. economy at a level commensurate with national importance. *See Dhanasar*, 26 I&N Dec. at 889. The Petitioner has not offered sufficient evidence to show that [redacted] will employ a significant population of workers in an economically depressed area or that his endeavor would offer a particular U.S. region or its population a substantial economic

benefit through employment levels or business activity. Nor has the Petitioner demonstrated that any increase in [redacted] revenue stands to substantially affect economic activity regionally or nationally. *See id.* at 890.

Because the documentation in the record does not sufficiently establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Therefore, further analysis of his eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose, and we will reserve these issues for future consideration should the need arise.[5]

III. CONCLUSION

Although the Petitioner has shown that his proposed endeavor has substantial merit, he has not established by a preponderance of the evidence that the proposed endeavor is of national importance. Accordingly, we conclude that the Petitioner is ineligible 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.

[5] *See INS v. Bagamasbad*, 429 U.S. at 25 ("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. at 526 n.7 (declining to reach alternate issues on appeal where an applicant is otherwise ineligible).