U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41308523

Date: FEB. 24, 2026

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks second preference immigrant classification (EB-2) as an advanced degree professional. *See* Immigration and Nationality Act (the Act) Section 203(b)(2), 8 U.S.C. § 1153(b)(2) (2023). She has indicated that she intends to come to the United States to work as the chief executive officer (CEO) of her company, [redacted]. In a November 2025 statement, she claimed through her counsel, that her field is "international trade with specialization in the U.S. electronics export sector." The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* Section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.[1]

Service Center Operations (SCOPS) denied the petition, concluding that although the Petitioner possessed an advanced degree, she did not establish a waiver of the required job offer, and thus of the labor certification, would be in the national interest. *See* Section 203(b)(2)(A)-(B) of the Act; *Matter of Dhanasar*, 26 I&N Dec. 884, 889-91 (AAO 2016). We dismissed her subsequent appeal.[2] Specifically, we concluded that the Petitioner did not satisfy the first prong of the *Matter of Dhanasar* analytical framework, which requires her to demonstrate that her proposed endeavor has national importance. *Id*. at 889-91. The matter is now before us on combined motions to reopen and reconsider.

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). Upon review, we will dismiss the combined motions.

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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] SCOPS denied the petition on three grounds: the Petitioner (1) did not demonstrate the national importance of her proposed endeavor, (2) did not establish that she was well positioned to advance her proposed endeavor, and (3) did not show, on balance, waiving the requirements of a job offer and a labor certification would benefit the United States. Our appellate decision was based solely on the Petitioner's failure to establish the required national importance. *See* Section 203(b)(2)(A)-(B) of the Act; *Matter of Dhanasar*, 26 I&N Dec. 884, 889-91 (AAO 2016). We noted on page 4 of our appellate decision that we declined to reach and reserved the consideration of the other two grounds discussed in SCOPS' decision. *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).

As discussed in our appellate decision, once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, he or she must then establish that he or she merits a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), provides the analytical framework for adjudicating national interest waiver petitions. *Matter of Dhanasar* states that USCIS may, as matter of discretion, 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 the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. at 889-91.

In her initial filing, the Petitioner claimed that her Florida-based business [redacted] is "dedicated to procuring electronic parts and equipment from U.S. manufacturers and exporting them to Brazil" and "will facilitate access to international markets for U.S. electronic component manufacturers – particularly small and medium-sized businesses (SMBs) – enabling them to expand their reach, increase revenues, and strengthen their competitiveness in the global economy."

In our appellate decision, we "recognize[d] the value of the expanding global markets for U.S. products and supply chains in the United States," but explained that "establishing a business [is] in an important sector of the U.S. economy is insufficient to establish the national importance of the Petitioner's proposed endeavor." Specifically, we noted that the record lacked "corroborating evidence – aside from claims in [the Petitioner's] statements and business plan coupled with statistics regarding U.S. exports to Brazil, U.S. dominance in global markets, and supply chains – that her company's activities stand to provide substantial economic benefits to the [redacted] Florida area or the United States." Additionally, we considered her claim that "her proposed endeavor will have ripple effects on the local or national economy," but ultimately concluded that "the record does not contain sufficient relevant or probative evidence showing that the economic effects of the Petitioner's company's activities will be substantial or that the secondary or indirect economic benefits of her proposed endeavor would rise to [a] level" commensurate with national importance. We stated in our decision that the Petitioner did not demonstrate the required national importance because "the economic benefits that [she] claims will result from her endeavor depend on numerous factors and [she] does not offer a sufficiently direct evidentiary tie between her proposed endeavor and the claimed economic results or establish . . . how her endeavor will impact the industry beyond her company's customers and the operations of the business." In other words, "the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner's proposed endeavor would reach the level of 'substantial positive economic effects' contemplated by [*Matter of*] *Dhanasar*."

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy

these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence has the potential to change the outcome).

On motion, the Petitioner claims that her "proposed endeavor [involves] expanding U.S. exports of electronic components to Brazil" and it "directly aligns with U.S. strategic trade priorities and industrial competitiveness objectives." She submits documents relating to her Florida-based business [redacted] The financial statements for the business indicate that in 2024, its "net income" was $2,889.40, a decrease of 93.9% from 2023, and its "gross profit" was $29,191.15, a decrease of 57.2% from 2023. This evidence of the business's decreased net income and gross profit does not support the finding that the economic benefits of her proposed endeavor will likely rise to a level commensurate with national importance. The Petitioner also offers on motion documents relating to [redacted] her business in Brazil, listing its revenue between October 2024 through August 2025. The evidence relating to a foreign company similarly is insufficient to demonstrate the national importance of the Petitioner's proposed endeavor in the United States. In short, the materials the Petitioner presents on motion do not establish her eligibility for a national interest waiver, because they do not confirm the national importance of her proposed endeavor. In other words, the motion evidence does not sufficiently establish that her proposed endeavor "has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" or that her proposed endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Matter of Dhanasar*, 26 I&N Dec. at 889-90. As the Petitioner's motion to reopen does not meet the regulatory requirements, we will dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner contests the correctness of our appellate decision, claiming that we erroneously "characterized [her] as having a background in 'information technology,' and suggested that her experience is primarily technical in nature." This is not an accurate statement regarding our appellate decision, as we did not state that the Petitioner had a background in "information technology" or that her experience was "primarily technical in nature."

Next, the Petitioner alleges that we failed to "consider the totality of the evidence," and that we erred because we required her to demonstrate "nationwide" or "field-wide" impact of her proposed endeavor. She maintains that her proposed "endeavor has economic value beyond the success of her individual enterprise and is therefore consistent with the type of national importance recognized under [*Matter of*] *Dhanasar*." In our appellate decision, we did not require the Petitioner to demonstrate "nationwide" or "field-wide" impact, rather we required her to establish the national importance of her proposed endeavor. *See Matter of Dhanasar*, 26 I&N Dec. at 889. As *Matter of Dhanasar* clarifies, "prospective impact" is not evaluated "solely in geographic terms," and that "[e]ven ventures and undertakings that have as their focus one geographic area of the United States may properly be considered to have national importance." *Id.*

We also explained on page 3 of our appellate decision that under *Matter of Dhanasar*, "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 'the specific endeavor that the foreign national proposes to undertake.'" *Id.*, 26 I&N Dec. at 889. We considered the Petitioner's evidence and concluded that it failed to confirm that the alleged prospective impact of her proposed endeavor would reach the level of national importance. We emphasized that while her proposed endeavor may focus on an area with significant merit, the evidence was insufficient to demonstrate that her "specific endeavor ha[d] a potential prospective impact in that area that [was] commensurate with national importance." While the Petitioner disagrees with our determination, she has not established that our appellate decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. *See* 8 C.F.R. § 103.5(a)(3); *see, e.g.*, *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (stating that "a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior . . . decision"). As the Petitioner's motion to reconsider does not meet the regulatory requirements, we will dismiss the motion.

In conclusion, although the Petitioner has submitted additional evidence in support of the motion to reopen, she has not established eligibility for a national interest waiver. *See* Section 203(b)(2)(B)(i) of the Act. On motion to reconsider, the Petitioner has not established that our appellate decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

NOTICE: 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.