U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37068323

Date: FEB. 26, 2025

Appeal of Texas Service Center Decision

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

The Petitioner 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).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish eligibility for the requested EB-2 immigrant classification or a national interest waiver. 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.

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).[1] 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. Section 203(b)(2)(A) of the Act.

[1] 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).

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. SIGNATURE ON APPEAL

As a preliminary matter, we have determined that the Petitioner's Form I-290B, Notice of Appeal or Motion, contains an electronically generated "signature" under Part 4 in the Petitioner's signature block. Accordingly, this appeal was not properly filed and dismissal on that basis alone is appropriate.

A. Legal Framework

The regulation at 8 C.F.R. § 103.2(a)(2) provides that "[u]nless otherwise specified in this chapter, an acceptable signature on a benefit request that is being filed with the USCIS [U.S. Citizenship and Immigration Services] is one that is either handwritten or, for benefit request filed electronically[3] as permitted by the instructions to the form, in electronic format."

Similarly, USCIS policy explains that a valid signature is "any *handwritten* mark or sign made by a person" who is the affected party with standing to file the benefit request to signify that "[t]he person knows of the content of the request and any supporting documents; [t]he person has reviewed and approves of any information contained in such request and any supporting documents; and [t]he person certifies under penalty of perjury that the request and any other supporting documents are true and correct."[4] And although the "regulations do not require that the person signing submit an 'original' or 'wet ink' signature on a petition, application, or other request to USCIS," we do "not accept signatures created by a typewriter, word processor, stamp, auto-pen, or similar device."[5] Accordingly, while a signature may be considered valid if it is "photocopied, scanned, faxed, or similarly reproduced . . . the copy must be of an original document containing an original handwritten signature, unless otherwise specified." *Id.*

---

[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).

[3] Because this Form I-290B was not filed electronically, none of the provisions governing electronic filings apply.

[4] *See generally* 1 *USCIS Policy Manual* B.2(B), https://www.uscis.gov/policymanual (emphasis added).

[5] *Id. See also generally* 1 *USCIS Policy Manual*, *supra*, at A (stating that "[e]xcept as otherwise specifically authorized, a benefit requestor must personally sign his or her own request before filing it with USCIS").

A person's signature on an immigration form establishes a strong presumption that the signer knows and has assented to its contents, absent evidence of fraud or other wrongful acts by another person. *Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018) (citing *Thompson v. Lynch*, 788 F.3d 638, 647 (6th Cir. 2015); *Bingham v. Holder*, 637 F.3d 1040, 1045 (9th Cir. 2011). In the same way that one person signing a declaration "for" another person carries no evidentiary force, neither will an image of a signature duplicated using some electronic means or method. Without the signatory's actual and personal signature as the declarant, the declaration under the penalty of perjury on immigration forms has no evidentiary force. *See in re Rivera*, 342 B.R. 435, 458-459 (D. N.J. 2006). USCIS has implemented these regulations and associated policies "to maintain the integrity of the immigration benefit system and validate the identity of benefit requestors." *Id.* Accordingly, if we determine that a benefit request does not contain a valid or a proper signature, we reject, deny, or dismiss it without providing an opportunity to correct or cure a deficient signature. 8 C.F.R. § 103.2(a)(7)(ii)(A); *see generally* 1 *USCIS Policy Manual*, *supra*, at A.

B. Analysis

As stated, the record reflects that the appellate Form I-290B contains an electronically generated "signature" under Part 4 in the Petitioner's signature block. We determined this is an electronic "signature" because along with his Form I-290B, the Petitioner submitted a document entitled "Dropbox Sign[6] audit trail," indicating that the Petitioner signed the form using Dropbox Sign to affix an electronic signature to the form. This document identifies Form I-290B as one of the documents the Petitioner signed through Dropbox Sign's service, and also assigns a unique document ID to the document being electronically signed. This document ID is identical to the document ID that appears at the bottom of each page of the Form I-290B submitted by the Petitioner. We also note that the Petitioner's signatures on the appellate forms (Form I-290B and the Form G-28) are identical and indistinguishable, to include each line, loop, slant, and spacing.

Therefore, considering the totality of the circumstances, we conclude that it is more likely than not that the image of the signature on the Form I-290B is not a "valid signature" as required by the regulation[7], and is not the Petitioner's "originally handwritten signature," as required by the USCIS Policy Manual. *See generally* 1 *USCIS Policy Manual*, *supra*, *at B.* And because we conclude the signature is not "any handwritten mark or sign made by a person," we are not primarily basing this decision on a signature that appears inconsistent with other signatures in the record, and will not issue a notice seeking additional information relating to the appearance of the signature.

Accordingly, the Petitioner did not properly sign the Form I-290B, and we cannot recognize the appeal to have been properly filed by an affected party with legal standing in these proceedings. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B). Nor can we decide that the Petitioner properly filed this appeal, and we must dismiss this filing. *See generally* 1 *USCIS Policy Manual*, *supra*, at B.2(B). Additionally, we also note that the same issues present with the Petitioner's signature on the Form I-290B also appear on the underlying Form I-140, Immigrant Petition for Alien Workers. And, if the petition was not properly filed, then again this appeal is not properly before us and dismissal would be appropriate.

[6] According to its website, Dropbox Sign provides its users with eSignature solutions, stating that "[e]ach signature on a document is imposed and affixed to the document" through its electronic service. *Dropbox Sign Legality Statement,* Dropbox Sign, https://www.dropboxsign.com/about/legal.

[7] 8 C.F.R. § 103.2(a)(7)(ii)(A).

II. NATIONAL INTEREST WAIVER

The Director concluded the Petitioner did not establish eligibility for the requested EB-2 immigrant classification as an individual of exceptional ability or the requested national interest waiver. Upon de novo review, we conclude the Petitioner is not eligible for a national interest waiver under the *Dhanasar* framework, and we will therefore decline to reach and hereby reserve the issue of his eligibility for EB-2 immigrant classification.[8] Accordingly, even if we were not dismissing the Petitioner's appeal on the signature issue, we would nonetheless dismiss it on the merits because he has not established eligibility for a national interest waiver.

On appeal, the Petitioner asserts that, pursuant to the recent U.S. Supreme Court decision in *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024), *Matter of Dhanasar* is no longer controlling precedent with respect to our adjudication of national interest waivers. Notably, the Petitioner has not provided any support for this assertion, and appears to misinterpret *Loper*'s reach. *Loper* overturned *Chevron USA v. Natural Resources Defense Council*, 467 U.S. 837 (1984), in holding that federal courts need not defer to agencies' reasonable interpretations of ambiguous federal laws. Therefore, *Loper* provides the judiciary with the sole prerogative to "say what the law is," stating that "[c]ourts must exercise their independent judgement in deciding whether an agency has acted within its statutory authority." *Loper*, 144 S. Ct. at 2257, 2273. While *Loper* guides federal courts that review our interpretation of ambiguous statutes, it does not modify our own adjudication of immigrant petitions.[9] Accordingly, we are not persuaded by the Petitioner's assertion and will conduct a de novo review of the record considering *Dhanasar's* analytical framework.

The first prong of the *Dhanasar* framework, 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*. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id*.

Here, the Petitioner intends to work in the United States as a commercial airline pilot for the transportation of passengers and cargo. According to the record, the Petitioner has experience and authority to operate a variety of aircrafts, including but not limited to the Boeing 757 and 767, Boeing 737-7 and 800, Boeing 777, and Boeing 787. The Petitioner asserted that, due to the unprecedented pilot shortage impacting the U.S. economy as well as the country's national security, the Petitioner's endeavor of working as an airline pilot in the United States is nationally important. And he asserted that his employment as a commercial airline pilot would "reduce the strain on the U.S. aviation industry caused by the pilot shortage." In support of his endeavor, he provided evidence of his experience as a pilot, including his relevant pilot licenses, flight logs, and letters of recommendation

[8] Where a case warrants a dismissal regardless of other eligibility considerations, it is unnecessary that we address those other considerations. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)).

[9] Moreover, when a "decision is committed to agency discretion [,like the adjudication of a national interest waiver,] *Loper Bright Enterprises'* mandate does not apply." *See Onyenanu v. Garland*, No. 8:23-CV-138, 2024 WL 5078098, at *6 n 5 (M.D. Fla. Dec. 11, 2024) (concluding that, because the decision to adjudicate national interest waivers is committed to agency discretion, *Loper* does not apply).

from his prior employers and colleagues in the field. In addition, the Petitioner submitted several articles, industry reports, and government publications discussing the importance of the aviation field, and providing facts and figures related to pilots in the United States, as well as articles discussing how the shortage of qualified pilots impacts the U.S. economy and supply chain processes throughout the United States.[10]

Upon review, the Director concluded that, while the Petitioner had established the substantial merit of his proposed endeavor, the record did not support his claims that his proposed work as a pilot was nationally important. Regarding the national importance of the proposed endeavor, the Director determined that the Petitioner had not shown the prospective impact of his work would broadly impact the field or otherwise result in national or global implications at a level commensurate with national importance. And, while acknowledging the Petitioner's economic claims in the record, the Director concluded that the Petitioner had not shown that his specific work had significant potential to employ U.S. workers or otherwise result in substantial economic benefits contemplated in *Dhanasar*. Moreover, the Director concluded that a shortage of qualified workers alone was not sufficient to establish the national importance of the Petitioner's endeavor.

On appeal, the Petitioner generally disagrees with the Director's conclusions, and asserts that the Director's decision misinterprets *Dhanasar* as it relates to the requirement that a petitioner establishes that their "specific endeavor" has national importance. The Petitioner contends that the phrase "specific endeavor," does not require a Petitioner to establish their endeavor will differ from the general duties of their proposed occupation, but rather requires a petitioner to "distinguish the characteristics of the job a [petitioner] means to perform within the United States from the characteristics of the [petitioner] himself." And the Petitioner asserts that "there are certain jobs within the United States that, while ubiquitous and fungible, are nevertheless nationally important." However, this misinterprets our *Dhanasar* precedent.

First, USCIS policy explains that when considering the prospective impact of a petitioner's proposed endeavor, "[t]he term '[e]ndeavor' is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation." This is consistent with our decision in *Dhanasar* which not only considered Dr. Dhanasar's occupation, but his specific proposed endeavor "to engage in research and development relating to air and space propulsion systems, as well as to teach aerospace engineering." Here, the Petitioner asserts that he provided "at least seven proposed endeavors delineated by the capabilities of the aircraft [the Petitioner] is currently rated to fly." However, while he has provided a summary of his expertise in aviation, and his authority to fly several different aircrafts, he has not explained how his *specific* work flying these aircrafts would result in broader implications to his field. Instead, the Petitioner continues to rely on the general importance of his proposed occupation.

We agree with the Petitioner's assertion that *Dhanasar* does not mandate that "a proposed endeavor must be unique" in order to have national importance, but a petitioner nonetheless must establish that their proposed endeavor will lead to broader implications at a level commensurate with national

[10] While we do not discuss each piece of evidence contained in the record individually, we have reviewed and considered each one.

importance. Here, the Petitioner continues to rely primarily on evidence establishing the importance of the aviation industry, pilots, and the shortage of qualified pilots in the United States to assert the national importance of his endeavor. While this evidence supports the substantial merit of the proposed endeavor, it does not establish how the Petitioner's specific work will lead to broader implications to the industry or otherwise implicate matters rising to the level of national importance.

On appeal the Petitioner also notes that the Director erroneously used a female pronoun for the Petitioner (who identifies as male), which he asserts raises concerns as to the sufficiency of the Director's review of the record. We have noted and considered the instances of incorrect pronoun usage by the Director in their decision, but conclude it did not impact the ultimate decision in this matter, and is, at most, harmless. *See generally Matter of O-R-E-*, 28 I&N Dec. at, 350 n.5 (citing *Japarkulova v. Holder*, 615 F.3d 696, 701 (6th Cir. 2010) (stating that error is harmless where there is no "reason to believe that . . . remand might lead to a different result" (citation omitted))). It is not enough to generally assert errors in a decision. The Petitioner must also establish that they were prejudiced by any claimed errors. Errors can be overlooked when they had no bearing on the substance of an agency's decision. *See e.g., Aguilar v. Garland*, 60 F.4th 401, 407 (8th Cir. 2023) (citing *Prohibition Juice Co. v. United States Food & Drug Admin.*, 45 F.4th 8, 24 (D.C. Cir. 2022)).

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* 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.* at 890.

Throughout the record, the Petitioner relies on the shortage of airline pilots in the United States to establish the national importance of his endeavor, asserting that he is ideally suited to help the U.S. air cargo and passenger industries meet growing demand. However, we are not persuaded by the Petitioner's argument that his proposed endeavor is of national importance because of a potential to address labor shortages in the field. The Petitioner has not established that his proposed endeavor stands to 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.

Additionally, while we acknowledge the importance of the aviation field, and its impact to the U.S. economy, the Petitioner has not provided evidence establishing the benefits to the regional or national economy resulting from his specific work. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation directly attributable to his future work (as opposed to the general economic impact of the industry), the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.*

For the reasons discussed, the Petitioner has not demonstrated that his proposed endeavor would be of national importance, and he therefore does not meet the requirements of the first prong of the *Dhanasar* analytical framework.

III. CONCLUSION

The appeal must be dismissed because the Form I-290B does not contain a valid signature as contemplated by the regulations and USCIS policy. 8 C.F.R. § 103.2(a)(7)(ii)(A); *see generally* 1 *USCIS Policy Manual*, *supra*, at A. Moreover, because the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established that he is eligible for, or otherwise merits, a national interest waiver as a matter of discretion. Since the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third prongs as well as a determination as to whether the Petitioner has met the requirements of EB-2 classification. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached").

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision.

ORDER: The appeal is dismissed.