U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40528792

Date: JAN. 06, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an aircraft maintenance technician, 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 that the Petitioner has a degree of expertise significantly above that ordinarily encountered in his field. 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. ANALYSIS

The Petitioner is an aircraft maintenance technician with several years of experience working for a major airline in Colombia. He proposes to continue working in this field by developing predictive maintenance technologies, implementing enhanced safety protocols for critical avionics systems, and establishing comprehensive training programs. In response to SCOPS' request for evidence (RFE), he submitted a business plan for a company he intends to establish that would operate an aircraft repair facility.

A. Alien of Exceptional Ability

SCOPS determined in its decision that the Petitioner met three of the six evidentiary criteria under 8 C.F.R. § 204.5(k)(3), and thus met the initial evidence requirement for establishing his eligibility as an alien of exceptional ability. However, in conducting a final merits determination, it determined that the Petitioner had not established that he possessed a degree of expertise significantly above that ordinarily encountered in his field of aviation maintenance, and thus was not eligible as an alien of exceptional ability. After review of the evidence, including the Petitioner's brief on appeal, we agree with SCOPS and conclude that the Petitioner has not established his eligibility for the underlying EB-2 classification.

On appeal, the Petitioner asserts that SCOPS erred by not considering his eligibility under additional evidentiary criteria that he claimed after it determined that he met the requisite three criteria. He contends that in doing so, SCOPS did not "engage in the holistic review required by *Kazarian*." In addition, the Petitioner asserts that "Meeting three criteria establishes a *prima facie* case of eligibility for exceptional ability, shifting the burden to USCIS to articulate specific, legitimate reasons for finding that the "totality of the evidence." We disagree on both counts. As explained at the outset, the regulation at 8 C.F.R. § 204.5(k)(3)(ii) requires that to establish eligibility as an alien of exceptional ability, a petitioner must submit qualifying evidence under "at least three" of the six criteria. Having determined that the Petitioner met the evidentiary criteria at subparagraphs (A), (B),

[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).

and (C), there was no need for SCOPS to evaluate his eligibility under additional criteria, because he had already met the initial evidence requirement. The "holistic review," better known as the final merits determination, occurs only after the initial evidence requirement has been met. *See generally* 6 *USCIS Policy Manual* F.5(B)(2), www.uscis.gov/policy-manual. And we note that SCOPS' final merits determination discussed the value and weight of the reference letters submitted by the Petitioner's supervisors and co-workers beyond establishing the requisite years of experience under subparagraph (B).

In addition, the Petitioner does not cite to any legal authority in support of his contention that the burden shifts to USCIS in the final merits determination. To the contrary, the Petitioner continues to bear the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. Thus the Petitioner must establish that he possess a degree of expertise significantly above that ordinarily encountered in the field of aircraft maintenance. We conclude that he has not met that burden.

SCOPS acknowledged the evidence of the Petitioner's experience of more than 25 years in the field of aircraft maintenance as well as his relevant certifications, licenses, and training. But it concluded that this evidence showed his qualification to perform the duties of his proposed endeavor, not that he possesses a degree of expertise significantly above that ordinarily encountered in the field. On appeal, the Petitioner asserts that the evidence of his leadership role at a major airline, the examples of airline maintenance improvements he initiated, and his high remuneration reflect his high expertise and the recognition of his accomplishments in the field. He places particular emphasis on the reference letters in the record submitted with his RFE response, and asserts that SCOPS mischaracterized them as lacking detail.

Beginning with the evidence of his remuneration, the record includes copies of the Beneficiary's pay receipts from [redacted] from August 2024 to January 2025 reflecting a base monthly salary of COP 7,410,112. In addition, the receipt from August 2024 shows that he received a "bonus of lustrums" in the amount of COP 25,935,392. The Petitioner stated in his RFE response that this bonus was in recognition of his 20 years with the company and his "status as one of the top professionals in the maintenance operations team."

On appeal, the Petitioner asserts that SCOPS imposed "an impractical evidentiary burden" by noting that the record lacked evidence of how his bonus and regular compensation compared to others in the field of aviation maintenance. However, while the Petitioner asserts that his compensation was high and that this and his bonus reflect recognition of his expertise, he provides no basis for stating that his compensation was high in relation to other aviation maintenance technicians. Further, while the bonus appears to have been generous, there is no support in the record for his assertion that it reflects recognition beyond his service longevity with his employer.[3] Notably, neither the employment verification letter from [redacted] nor the many reference letters from the Petitioner's supervisors and coworkers tie the bonus to recognition for a specific achievement, or even mention the bonus.

[3] We also note that "lustrum" is defined as "a period of five years." *Lustrum*, Merriam-Webster.com, www.merriam-webster.com. This description of the bonus indicates that it is provided to employees at regular five-year intervals based upon length of service.

Turning to the reference letters, some of them provide descriptions of the Petitioner's accomplishments while working for [redacted]. A-O-, Director of [redacted]'s Maintenance Control Center (MCC), lists three contributions to [redacted] made by the Petitioner: leading the design and implementation of a comprehensive pre-flight check system, mentorship and development of more than 50 aviation technicians, and adoption of predictive maintenance protocols. A-O- indicates that these efforts led to reductions in unscheduled maintenance events, flight delays due to maintenance issues, maintenance turnaround times, and in-flight mechanical issues for [redacted], and that the pre-flight checklist became standard practice throughout the airline. Also, a letter from J-P-C-, who served as a shift supervisor at MCC, confirms the Petitioner's role in the adoption of predictive maintenance systems at [redacted], and that he also helped the airline in gaining regulatory approval for avionics upgrades for its aircraft.

While these letters indicate that the Petitioner made contributions to [redacted] in his role as an MCC Specialist that led to operational improvements for the airline, they are not supported by, and carry less weight than, contemporaneous documentation which might document and show recognition of these achievements. *See generally* 6 USCIS Policy Manual F.5(B)(2), www.uscis.gov/policy-manual. Further, the letters do not indicate that these improvements went beyond the implementation of industry-wide practices and procedures, including those mandated by civil aviation authorities, and the adoption of the latest industry technologies developed by third parties.

Other letters from the Petitioner's colleagues at [redacted] indicate that he excelled in performing his duties as an aviation maintenance technician. R-C-P- mentions that the Petitioner "plays a key role in prioritizing maintenance tasks," "oversees the documentation of technical incidents, maintenance actions, and inspections," and "is authorized to approve aircraft for return to service," tasks which are listed as the duties of an MCC Specialist in the employment verification letter. And a letter from a fellow MCC Specialist, J-I-M-B-, verifies that the Petitioner is "an expert in inspection, maintenance and repair work." While these letter recognize the Petitioner's technical expertise and job performance, they do not place his level of expertise significantly above that of other aviation maintenance technicians.

The totality of the evidence shows that the Petitioner is an experienced and licensed aviation maintenance technician who has maintained and expanded his technical expertise over the course of his career and made contributions to the operations of his employer. But he has not substantiated his claims that his level of pay, certifications and license, and recognition from his employer evidence a level of expertise significantly above that ordinarily encountered in his field. We therefore conclude that the Petitioner has not established eligibility for the EB-2 classification as an alien of exceptional ability.

B. National Interest Waiver

The Petitioner has not established his eligibility for the underlying EB-2 classification, and thus is not eligible for a national interest waiver. But we will briefly address his eligibility under the first prong of the Dhanasar analytical framework. Under the first prong, substantial merit and national importance, we focus 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.*

SCOPS concluded in its decision that the record lacked sufficient specific information about the Petitioner's proposed endeavor, and therefore did not establish that his endeavor had substantial merit. In a letter submitted with his initial filing, the Petitioner stated that he has been an aircraft maintenance technician for 25 years, and in the last 7 years has focused on instructing others in this field. He further stated that he wanted to help private air operators and small commercial air operators "to guarantee that the training of its [*sic*] maintenance personnel teams is carried out with the highest quality standards demanded by the aeronautical industry." But this statement did not provide further details about the training or how the Petitioner intended to carry it out.

In response to SCOPS' RFE, the Petitioner indicated that his proposed endeavor comprised three elements:

- Development of predictive maintenance technologies that have demonstrated an 88% reduction in unscheduled maintenance events,
- Implementation of enhanced safety protocols for critical avionics systems including TCAS and GPS, and
- Establishment of comprehensive training programs addressing the industry's projected demand for 690,000 maintenance technicians by 2041.

The Petitioner also submitted a business plan for [redacted], a general aviation repair facility which he would own and manage and would be located in [redacted], Georgia. This facility "will offers [*sic*] a full range of typical aircraft maintenance services to the general aviation and regional operators."[4] The services to be offered by this company would include "routine inspections, engine overhauls, and advanced avionics upgrades." However, the business plan sheds no light on how this company would implement the elements of the Petitioner's proposed endeavor stated above. For example, while the Petitioner emphasized the training aspect of his proposed endeavor in his statement accompanying his initial filing, the business plan makes no mention of a training program. It also does not clarify whether the Petitioner intends to offer his comprehensive training programs to his own [redacted] employees or to train the maintenance personnel of its clients. Another example is the Petitioner's proposed development of predictive maintenance technologies, which on appeal is stated to involve "integrating machine learning algorithms with traditional inspection procedures." Although the business plan indicates that aircraft inspections will be amongst the services offered by [redacted], there is no indication of plans for the development of tools using machine learning algorithms.

The result of these inconsistencies between the Petitioner's statements and the business plan for [redacted] is to introduce confusion regarding the nature of his proposed endeavor. This confusion is further exacerbated on appeal, where the Petitioner focuses on the three-part statement of his proposed endeavor in asserting the substantial merit of his proposed endeavor, but on the business plan in claiming its national importance through job creation and substantial positive economic effects. While

[4] We note that while the plan refers to [redacted] both in prospective terms and as a business that has already been established and employs 12 workers, including department heads, the record does not include documentation showing that it has been established as a legal entity and is currently operational.

we agree that the business plan provides sufficient detailed information to form the basis for a proposed endeavor under *Dhanasar*, its detachment from the initial statements describing the Petitioner's proposed endeavor represent an impermissible material change in the nature of the proposed endeavor. A petitioner may not make material changes to a petition that has already been filed to make an apparently deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1998).

Even if we were to accept that the business plan for [redacted] represents a further explanation of the original proposed endeavor, and that the endeavor has substantial merit in the area of business, the evidence is insufficient to establish its national importance under the first prong of the *Dhanasar* analytical framework. When considering whether a proposed endeavor is of national importance, we look for evidence of its broader implications, such as those potentially affecting a field on a national level or having a significant potential to employ U.S. workers or other substantial positive economic effects. *Matter of Dhanasar*, 26 I&N Dec. at 889-90. The Petitioner asserts that his proposed endeavor aligns with U.S. government priorities and initiatives, pointing first to a Presidential proclamation regarding hiring practices at the Federal Aviation Administration and a following memorandum to the U.S. Secretary of Transportation. 90 Fed.Reg. 8651 (January 31, 2025). While these documents briefly mention aviation safety (but not maintenance), their focus is on hiring practices for federal employees, which bears no relation to the Petitioner's proposed endeavor.

In the same vein, the Petitioner asserts that his proposed endeavor is in a STEM field, noting that the USCIS Policy Manual states that many such endeavors demonstrate national importance. But the Petitioner presents no evidence that the field of aviation maintenance is a STEM field. Also, the section of the USCIS Policy Manual quoted by the Petitioner specifically addresses endeavors "that aim to advance STEM technologies and research." Nowhere in the submitted business plan for [redacted] is research or advancement of technologies in aviation maintenance or even aeronautical engineering or other related fields mentioned. The Petitioner also asserts that his proposed endeavor "lies within a domain identified as a Critical and Emerging Technology (CET)," but does not refer to any documentation to support this assertion, nor can any such evidence be found in the record.

The Petitioner also contends that his proposed endeavor has significant potential to employ U.S. workers and will have substantial positive economic effects. Referring to the business plan, he notes the proposed creation of 12 positions within the company and its projection for $1.5 million in revenue within the first 5 years of the company's operation. But the plan lacks sufficient detail to support these projections, and the record does not include supporting evidence to corroborate the claims made regarding the market conditions in the proposed [redacted] location. For example, the plan does not include a hiring schedule for these positions or descriptions of the duties of potential staff. More importantly, the record does not include sufficient evidence that the potential employment of these workers would offer the region or its population a substantial economic benefit based upon these employment levels. And although the revenue projections suggest that [redacted] would have growth potential, they do not demonstrate that the benefits to the regional or national economy resulting from this proposed endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

Finally, the Petitioner disagrees with SCOPS' comparison of the national importance of his proposed endeavor to the teaching duties proposed by the petitioner in *Dhanasar*, in that the implications of the

Petitioner's activities through his leadership of [redacted] would be limited to the company's workers and clients. He asserts that the training component of his proposed endeavor would serve to mitigate a national workforce shortage, and his development of predictive maintenance technologies would be disseminated throughout the aviation maintenance industry. But as noted above, the business plan lacks any mention of how these aspects of the proposed endeavor would potentially be achieved, nor is this information found elsewhere in the record. We agree that the Petitioner has not established that his proposed creation and leadership of [redacted] would have broader implications for the field of aviation maintenance.

III. CONCLUSION

The Petitioner has not established eligibility for the EB-2 immigrant classification as an alien of exceptional ability, and is therefore not eligible for a national interest waiver. In addition, we conclude that the Petitioner has not established that his proposed endeavor is of national importance under the first prong of the *Dhanasar* analytical framework. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, his assertions regarding the second and third prongs under *Dhanasar*. *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.