U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40385582

Date: JULY 13, 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 nurse, 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 the record did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. 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).

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

[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.

U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[2] grant a national interest waiver if the petitioner demonstrates that: (1) the proposed endeavor has both substantial merit and national importance; (2) the individual is well-positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer requirement would benefit the United States. *Id.*

II. ANALYSIS

A. EB-2 Classification

The Service Center Operations (SCOPS) found the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree. Based on the record, we question whether the Petitioner has met this threshold requirement. However, as the record does not establish by a preponderance of the evidence that the Petitioner is eligible for a national interest waiver under the *Dhanasar* analytical framework, which is dispositive of this appeal, we will reserve the issue of the Petitioner's eligibility for the EB-2 classification. *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).

B. National Interest Waiver

In her initial filing, the Petitioner stated that she "plann[ed] to work as a primary care and emergency nurse in areas with health professional's [sic] shortages, specifically in low-income population and medically underserved areas inside the state of Florida."

In response to SCOPS' Request for Evidence (RFE), however, the Petitioner stated that she planned to work as an occupational health consultant and launch her own company, [redacted]. Through her company, she planned to "provide affordable, bilingual consulting services that address urgent workplace needs such as OSHA and HIPAA compliance, return-to-work planning, and bilingual safety training." Specifically, her core services would include bilingual occupational health audits, return-to-work program design, job-specific health risk assessments, professional mentorship for new healthcare workers, and customized training in safety practices. She stated that her work would start in Health Professional Shortage Areas (HPSAs) like [redacted], Florida and expand to other underserved regions, including [redacted], Colorado, where she is currently based.

SCOPS denied the petition, finding the Petitioner materially changed her proposed endeavor. While the Petitioner first proposed to work as a primary care and emergency nurse in her initial filing, in response to the RFE, the Petitioner submitted a new personal statement and business plan claiming she intended to start her own occupational health consulting company. SCOPS found this new information constituted an impermissible material change of the Petitioner's proposed endeavor and declined to consider the new, changed endeavor.

SCOPS found that the Petitioner's initially proposed endeavor was vague and concluded that the evidence was insufficient to show the Petitioner's future work would have national or global

[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).

implications within the field, have a significant potential to employ U.S. workers, would broadly enhance societal welfare, enhance cultural or artistic enrichment, or impact a matter that a government entity has described as having national importance under the first prong. SCOPS also concluded that the Petitioner did not establish that she is well-positioned to advance the proposed endeavor, and that, on balance, waiving the job offer requirement would be beneficial to the United States under the second and third prongs.

On appeal, the Petitioner argues that SCOPS did not properly evaluate all the evidence. She also asserts that SCOPS misapplied the preponderance of the evidence standard, the USCIS Policy Manual, and the *Dhanasar* decision. She argues that the evidence shows her occupational health consulting company satisfies the requirements of the *Dhanasar* analytical framework.

Upon de novo review, we agree with SCOPS' conclusion that the Petitioner has not demonstrated her proposed endeavor's national importance under the first prong and, thus, has not established her eligibility for a national interest waiver. While we do not discuss every piece of evidence individually, we have reviewed and considered the record in its entirety.

As an initial matter, the Petitioner has not meaningfully contested SCOPS' determination that she materially changed her proposed endeavor. The issue is, therefore, waived on appeal. *See, e.g., Matter of F-C-S-*, 28 I&N Dec. 788, 792 n.6 (BIA 2024) (finding a determination that was not disputed on appeal to be waived). Instead, the Petitioner focuses her arguments on her second proposed endeavor to establish an occupational health consulting company.[3] But, in doing so, the Petitioner fails to meaningfully argue how SCOPS erred in finding the *initial* endeavor was not nationally important and, therefore, has not overcome their determination. And after reviewing the record, we agree with SCOPS' conclusion that the Petitioner has not established that her initial endeavor of working as a primary care and emergency nurse is nationally important.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Id*. In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and 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.

The Petitioner contends that her proposed endeavor is nationally important because it will have a substantial positive impact on healthcare communities and it can help address critical healthcare needs, create jobs, and improve the overall well-being of residents in underserved regions. She also contends

[3] The Petitioner argues that SCOPS failed to adequately evaluate the totality of the evidence, such as her business plan and recommendation letters. However, these documents were submitted with her RFE response and were related to her new, materially changed endeavor of establishing her own occupational health consulting company. Because the Petitioner must establish eligibility at the time of filing, her claims related to her new occupational health consulting company proffered after the filing of the petition cannot be considered. 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971).

that her contributions align with national priorities. However, the Petitioner has not offered sufficient evidence to demonstrate that her proposed endeavor's prospective impact rises to the level of national importance. In particular, the record does not illustrate how her specific endeavor would sufficiently extend beyond her patients or the individuals she trains to impact the field more broadly.

The Petitioner relies heavily on the value of the nursing and healthcare fields to establish her endeavor's national importance. For instance, she contends that nursing plays a major role in healthcare for the growing aging population, including for surgical procedures, physician office visits, nursing home care, home care, hospital services, and rehabilitation. In support of her claims, she submitted articles on topics including the importance of nurses in healthcare, nurse shortages, and national health expenditure data. While this evidence speaks to the substantial merit of the proposed endeavor, 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." *Matter of Dhanasar*, 26 I&N Dec. at 889. Although we recognize the importance of the nursing and healthcare fields, as well as the individuals employed in them, working in an important industry or sector, even one that is the subject of national priorities, is not sufficient in and of itself to establish the national importance of the proposed endeavor. *See id.* at 889 (stating that the first prong's focus is on "the specific endeavor that the foreign national proposes to undertake"). The Petitioner must still demonstrate the proposed endeavor's potential prospective impact in that area of national importance. And here, the evidence does not establish how the Petitioner's work would sufficiently extend beyond her patients to produce the nationally important impacts claimed.

For instance, the Petitioner claims that she will train and mentor other professionals in the field, thereby expanding the workforce. But, in the same way that *Dhanasar* finds that a classroom teacher's proposed endeavor is not nationally important because it will not impact the field more broadly, we also conclude that the Petitioner has not shown how her proposed endeavor will sufficiently extend beyond the individuals she trains to affect the region or our nation. And despite her claims that the nursing field is experiencing workforce shortages, there is also little evidence that her future work stands to impact or significantly reduce any claimed national shortage.

The Petitioner also asserts that her endeavor can have a "positive impact on employment creation within critical underserved areas" by expanding the healthcare workforce, creating jobs, attracting healthcare professionals to underserved areas, and reducing healthcare costs. However, aside from these vague assertions, she has not elaborated how her work as an individual nurse will specifically accomplish such objectives and, importantly, how any impact produced would be direct and significant enough to rise to a nationally important level. General conclusory statements without a sufficiently direct evidentiary tie between the proposed endeavor and the claimed impacts are insufficient. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner also emphasizes her skills, expertise, and experience in clinical and hospital care to show that her endeavor "can benefit the healthcare sector" and submits various recommendation letters to support her claim. However, the Petitioner's skills, expertise, and experience are more relevant to *Dhanasar's* second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Matter of Dhanasar*, 26 I&N Dec. at 890. The issue under the first prong is whether the Petitioner has

demonstrated the national importance of the proposed endeavor itself. And, here, while the authors laud the Petitioner's skills, personal attributes, and past accomplishments, they do not discuss the Petitioner's specific proposed endeavor of working as a primary care and emergency nurse, or any impact thereof. Therefore, these letters provide little probative information in establishing how the proposed endeavor rises to the level of national importance.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375. Because the documentation in the record does not establish her proposed endeavor's national importance as required by *Dhanasar's* first prong, the Petitioner has not demonstrated eligibility for a national interest waiver. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining issues and arguments concerning whether she has established eligibility for the underlying EB-2 classification, as well as eligibility under the remaining two *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, she has not established that she is eligible 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.