U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41807817

Date: MAR. 30, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an industrial engineer, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or 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 Petitioner did not establish eligibility for the EB-2 classification or 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).

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. 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. EB-2 IMIGRANT CLASSIFICATION

A. Advanced Degree Professional

The Petitioner states that he is an oil and gas facility engineer with 25 years of experience. The record includes a diploma in industrial engineering technology and academic transcripts issued to the Petitioner by the [redacted] in Canada. The record also includes an evaluation of the Petitioner's academic credentials and experience from the [redacted] The evaluation states that the Petitioner's diploma represents "three years of academic studies toward a bachelor's degree from an accredited institution of higher education in the United States." The evaluation goes on to conclude that the Petitioner's three years of academic study, combined with his more than 24 years of progressively responsible employment experience, is "equivalent to a Bachelor

[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.

[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).

of Science Degree in Engineering Management from an accredited institution of higher education in the United States."

With the initial filing, the Petitioner stated that he satisfies the advanced degree requirement based on his diploma in industrial engineering technology from [redacted] "which has been independently evaluated and deemed equivalent to a Bachelor of Science Degree in Engineering Management from an accredited U.S. university." We note, however, that the [redacted] evaluation in the record states that the Petitioner's diploma from [redacted] independently represents three years of undergraduate study, and only equates to a U.S. bachelor's degree when combined with his employment experience. A U.S. bachelor's degree generally requires four years of education. *Matter of Shah*, 17 I&N Dec. 244 (Reg'l Comm'r 1977).

In a request for evidence (RFE), SCOPS stated that the Petitioner's [redacted] diploma in industrial engineering management appeared to represent two years of academic study. SCOPS requested additional evidence in the form of official academic records demonstrating that the Petitioner has a U.S. advanced degree, or foreign equivalent degree. The Petitioner did not submit any additional official academic records in response to the RFE. In its decision, SCOPS did not further discuss the Petitioner's eligibility as a member of the professions holding an advanced degree.

On appeal, the Petitioner does not present further claims that he is a member of the professions holding an advanced degree or that SCOPS erred in not addressing this in its decision. Any ground of ineligibility that is not raised on appeal is waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (*citing Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)). Therefore, we conclude that the Petitioner has not established eligibility for the requested EB-2 classification as a member of the professions holding an advanced degree.

B. Exceptional Ability

The Petitioner also asserted in the initial filing that he is eligible for the requested EB-2 classification as an individual of exceptional ability. After reviewing the Petitioner's response to the RFE, SCOPS concluded that the Petitioner had met three of the six criteria at 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F). Specifically, SCOPS stated that the Petitioner possessed: (A) an official academic record establishing his diploma from an institution of learning, (B) at least 10 years of full-time experience in the occupation, and (C) a license to practice the profession.

SCOPS stated that a final merits determination would be conducted to determine whether the evidence in its totality shows that the Petitioner "is recognized as an individual of exceptional ability and possesses a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business." However, without further discussion or detailed analysis, SCOPS stated, "After thorough review of the record, [the Petitioner] does not establish that this has been met."

We agree with SCOPS' conclusion that the Petitioner met the criteria at 8 C.F.R. § 204.5(k)(3)(ii)(A)-(C). However, because we otherwise conclude that the Petitioner is not eligible for a waiver of the required job offer, and thus of the labor certification, we decline to consider and hereby reserve the Petitioner's appellate arguments regarding eligibility as an individual of exceptional ability. *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 alternative issues on appeal where an applicant is otherwise ineligible).

As we will discuss below, the Petitioner has not satisfied the requirements of the first prong of the *Matter of Dhanasar* framework. Therefore, the petition cannot be approved. As such, we will reserve our determination of the Petitioner's eligibility for EB-2 classification and will not address this portion of SCOPS' decision further. This should not be construed as agreement that the Petitioner has satisfied this requirement.

III. NATIONAL INTEREST WAIVER

The Petitioner states that his proposed endeavor is to continue his employment as president and senior project manager of his engineering, procurement and construction management firm. Through his company [redacted] the Petitioner plans to "modernize oil and gas production infrastructure across the United States by developing and deploying modular, plug-and-play facility systems that replace inefficient, oversized installations and enable producers to scale equipment to match actual well output." The Petitioner states that these models, trademarked under the name [redacted] are tailored to the well's lifecycle, and "allow energy companies to redeploy equipment, reduce capital waste, and minimize environmental impact, particularly by mitigating methane emissions – a key national climate goal."

After reviewing the Petitioner's initial filing, as well as evidence submitted in response to the RFE, SCOPS determined that the Petitioner had submitted sufficient evidence to demonstrate that his proposed endeavor has substantial merit and that he is well-positioned to advance his proposed endeavor. However, SCOPS concluded that the Petitioner did not establish that his proposed endeavor has national importance. SCOPS further concluded that the Petitioner had not demonstrated that, on balance, waiving the job offer requirement would benefit the United States. SCOPS stated that the record did not demonstrate that the Petitioner's proposed endeavor will have a regional or national impact at a level consistent with having national importance, or that the Petitioner's work will have broader implications in his field of endeavor. SCOPS noted that the Petitioner's reliance on the importance of the field is insufficient to establish that his proposed endeavor is of national importance.

The first prong of the *Dhanasar* analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner 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. The record establishes that the Petitioner's proposed endeavor is to operate an engineering firm serving oil and gas producers in North America in reducing energy and resource waste. As noted above, SCOPS determined that the Petitioner's proposed endeavor has substantial merit. We agree.

In determining national importance, the relevant question is not the importance of the field, 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.*

On appeal, the Petitioner asserts that SCOPS mischaracterized the evidence and made incorrect conclusions of law and statements of the facts. We disagree with the Petitioner's assessment of SCOPS' decision. To determine whether a petitioner has met their burden under the preponderance of the evidence standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.; *see also Matter of E-M-*, 20 I&N Dec. 77, 79- 80 (Comm'r 1989). Here, SCOPS acknowledged documents submitted to evaluate the national importance of his proposed endeavor. Based on the record, SCOPS' decision is a reasoned interpretation and consideration of the evidence. The proposed endeavor, as described, and the evidence in the record do not support the Petitioner's assertions that the potential impact of his endeavor extends beyond his company to have a broader impact in his field or implications rising to a level of national importance.

The Petitioner asserts that inefficiencies and environmental challenges facing the U.S. oil and gas industry demonstrate the national interest of the Petitioner's proposed endeavor. The record includes articles and industry reports on oil and gas operations and methane emissions. As noted in the decision, however, the articles and industry reports do not mention the Petitioner's specific proposed endeavor or its potential impact on the field or on national initiatives. We recognize the overall benefits of clean energy to the environment, economy, and society, as well as attracting qualified professionals in related careers. However, working in the gas and oil field is insufficient to establish the national importance of the proposed endeavor. Instead of focusing on the importance of an industry or the need for workers in a specific industry, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar,* 26 I&N Dec. at 889.

On appeal, the Petitioner states that the industry reports establish "why [redacted] is needed at a national level." However, demand for the Petitioner's services is not, on its face, evidence of eligibility for a national interest waiver. When analyzing the national importance of a petitioner's proposed endeavor under *Dhanasar's* framework, we focus on the "potential prospective impact" of the proposed endeavor, looking for "broader implications." *Id.*

Further the Petitioner's assertion of demand for his service is not corroborated by independent, objective evidence. We acknowledge the statements from the Petitioner's clients praising his company's engineering work. However, none of these remarks mentions the Petitioner's proposed endeavor specifically, or [redacted] We also acknowledge the "business impact" data that the Petitioner submits on appeal, including the quantitative impact summary, economic and policy impact summary, and quantitative impact visuals. However, these impact summaries do not identify the source or author, or the methodologies used. The only citation noted on the summaries is to the Petitioner's company's own data.

The Petitioner references an enhanced oil recovery project with [redacted] and the [redacted] He states on appeal, "The record contains concrete data showing that widespread use of [redacted] modules would yield multi-million dollar savings and investments across the U.S. oil sector." However, the record contains only the Petitioner's proposal to partner with the university on the project, dated July 29, 2025, and a letter from the university, dated October 18, 2025, confirming the Petitioner's company's participation. The university letter states that [redacted] is one of eight project partners. The letter does not provide detail about the Petitioner's or [redacted] specific role in the project. Nor does it include any data or results, a description of how the results of the evaluation would be

disseminated to reach the broader oil and gas industry, or an explanation of how this would result in a significant impact in the oil and gas industry.

The Petitioner also references a letter from [redacted] corporate accounts director with [redacted] a mechanical construction contractor. The undated letter states that [redacted] "has had preliminary discussions" with the Petitioner regarding "the potential to collaborate on future projects." While [redacted] states that execution of these potential projects could result in "15-25 skilled U.S. workers per site," he does not provide his credentials or explain how he derived this estimation. The letter does not support the Petitioner's assertion that his proposed endeavor would have substantial economic benefits on a level commensurate with national importance.

The record includes recommendation letters from the Petitioner's colleagues to demonstrate his success in the oil and gas engineering field. The letters attest to the Petitioner's technical knowledge and his work with specific projects. For instance, a letter from [redacted] discusses the Petitioner's work on various projects that "have resulted in high-impact deliverables in regulatory compliance, emissions mitigation, and capital efficiency" for [redacted] Additional letters from the Petitioner's current and former colleagues also attest that his work supports U.S. energy security and environmental goals.

However, the content of these letters relates to the second prong of the *Dhanasar* framework, instead of speaking to the national importance of the Petitioner's proposed endeavor. The letters attest to his technical competencies and professionalism which helped his employers, colleagues, and clients. They describe the Petitioner's role for certain successful projects for his clients, including his project work designing modular systems. We acknowledge that the Petitioner provided valuable oil and gas facility engineering services for his clients, but the Petitioner has not offered sufficient information and evidence based on these recommendation letters to demonstrate the prospective impact of his proposed endeavor rises to the level of national importance.

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. *Matter of Dhanasar,* 26 I&N Dec. at 893. We explained that "[a]n 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.* Here, the evidence in the record mainly focuses on the Petitioner's work with his clients and does not demonstrate that the Petitioner's proposed endeavor will have the claimed national or global implications in the oil and gas industry.

On appeal, the Petitioner states that, '[redacted] modular methodology is already under validation in partnership with [redacted] and, if scaled as modeled …, has the potential to transform field-level infrastructure efficiency nationwide, multiplying cost and emissions savings across hundreds of U.S. production sites." However, beyond his trademark of the brand name, the Petitioner has not adequately explained or demonstrated how his expertise differs from or improves upon those models readily available and already in use in the United States.[4] The Petitioner does not present evidence of a patent

[4] A *trademark* offers legal protection of "a word, phrase, design, or a combination" that identifies or distinguishes goods or services. A *patent* offers legal protection of "technical inventions, such as … machine designs that are new, unique,

for [redacted] or any other design related to his proposed endeavor. The record does not sufficiently explain how the Petitioner's work is novel or an improvement upon processes already in use.

The Petitioner makes broad claims, without corroborating evidence, that his proposed endeavor would impact national government policies and advance the field of oil and gas engineering. While the Petitioner's work on oil and gas engineering equipment may demonstrate the substantial merit of the proposed endeavor, it does not support or demonstrate its prospective potential impact nationally, or even globally, or through broader implications rising to a level of national importance.

When analyzing the national importance of a petitioner's proposed endeavor under *Dhanasar's* framework, we focus on the prospective impact of the proposed endeavor, instead of limiting our analysis to a petitioner's employment at the time of filing. An endeavor is more specific than a general occupation and should include details of the types of work a petitioner intends to undertake and describe specific projects and goals. *See generally* 6 *USCIS Policy Manual, supra,* at F.5(D)(3). As a comparison, the petitioner in *Dhanasar* demonstrated that he conducted research and development in the field of air and space propulsion, more specifically, hypersonic propulsion systems involving speeds above Mach 5, and he had developed a novel method for accurately calculating hypersonic airflow. *Matter of Dhanasar*, 26 I&N Dec. at 891-92. In addition, he submitted evidence reflecting that he would continue his research into designing and developing propulsion systems in nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles and substantial supporting evidence of how his continued research would assist the United States in maintaining its advantage over other nations in hypersonic flight, including documentation reflecting his receipt of funding from a government entity for his research. *Id.*

The standard of proof in this proceeding is a preponderance of the evidence, meaning that a petitioner must show that what is claimed is "more likely than not" or "probably" true. *Matter of Chawathe*, 25 I&N Dec. at 375-76. To determine whether a petitioner has met the burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.*; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, the Petitioner's claims that his work with gas and oil operators will benefit the United States with a reduced carbon footprint and cleaner energy security have not been established through independent and objective evidence. Without sufficient documentary evidence that his proposed work as an oil and gas facility engineer expert extends beyond his prospective clients to impact the field or the U.S. economy, society, or the environment more broadly, the Petitioner has not demonstrated by a preponderance of evidence that his proposed endeavor is of national importance. The economic, societal welfare, and environmental benefits that the Petitioner claims depend on numerous factors and the Petitioner did not offer a sufficiently direct evidentiary tie between his oil and gas facility engineering work and those claimed benefits. Therefore, the Petitioner has not met the first prong of the *Dhanasar* framework.

Because the Petitioner has not established the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, he has not demonstrated eligibility for a national interest waiver. This basis for denial is dispositive of the Petitioner's appeal, and we decline

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and usable in some type of industry." U.S. Patent and Trademark Office, https://www.uspto.gov/trademarks/basics/trademark-patent-copyright (visited Mar. 17, 2026).

to reach and hereby reserve the Petitioner's appellate arguments regarding his eligibility under the third prong. *See INS v. Bagamasbad*, 429 U.S. 24 at 25.

III. CONCLUSION

As the Petitioner has not met all of the requisite three prongs set forth in the *Dhanasar* analytical framework, we conclude that he has not established he 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.