U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42831962

Date: May 20, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a pilot, 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 although the Petitioner qualified as an advanced degree professional, he did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.[1] 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.

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.

[1] 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.*

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

As a preliminary matter, we note that the Petitioner did not sufficiently define his endeavor in the initial filing and later materially changed his endeavor in response to the request for evidence (RFE). In the initial filing, the Petitioner stated that he plans to continue working as an airport transport pilot for [redacted].[3] He indicated that he received a rating from the Federal Aviation Administration (FAA) that would allow him to be a U.S. airline pilot and an advanced ground instructor, and later advance as a Boeing flight instructor and flight simulator instructor for [redacted].[4]

Subsequently, SCOPS issued an RFE noting, in part, that the record lacked "a specific and well-detailed description about what the petitioner endeavors to do in the United States, as well the nature of the specific endeavor."[5] In response to the RFE, instead of providing more detailed description of his initial endeavor, the Petitioner introduced a new endeavor. Specifically, the Petitioner proposed to "advance the integration of Artificial Intelligence (AI) and automation technologies across airline operations, flight-deck systems, and flight-test engineering, with the goal of enhancing operational safety, decision-support logic, and system reliability across both manned and autonomous cargo aviation domains."

However, a petitioner may not make material changes to a petition that has already been filed to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1988); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). USCIS regulations affirmatively require a petitioner to establish eligibility for the benefit sought at the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(1).

Further, a petitioner must identify "the specific endeavor that [he] proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889; *see generally 6 USCIS Policy Manual* F.5(D)(1) ("The term

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[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] We note that the Petitioner supplemented the record thereafter with additional documents which raise questions about his initial proposed endeavor as a pilot. Specifically, the Petitioner submitted a general business license for his company, [redacted], and certificates for medical interpreter, along with checks and invoices for his work as a medical interpreter.

[4] Specifically, he received an FAA Advanced Ground Instructor rating which he claims would allow him "to be a U.S. Airline Pilot and an Advanced Ground Instructor and, consequently, grow to the Boeing 757/767 Flight Instructor and Flight Simulator Instructor."

[5] SCOPS also cited to *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981) and noted that supplemental documentation was dated after the initial date of filing of the petition stating that it "cannot consider facts that come into being only subsequent to the filing of a petition." *Id.* at 176.

'endeavor' 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"). We rely on the specific proposed endeavor to determine whether it has both substantial merit and national importance. *Id.* at 889-90. Here, the Petitioner initially did not sufficiently describe the endeavor or what type of work the Petitioner plans to engage in other than continuing to work for his company as a pilot and eventually becoming a flight instructor.

Nevertheless, while SCOPS noted the discrepancy, SCOPS acknowledged and analyzed the evidence the Petitioner submitted in response to the RFE including his new plan of endeavor, letters of recommendation, and expert opinion letter. However, as noted, 8 C.F.R. § 103.2(b)(l) requires that the Petitioner establishes eligibility at the time of filing. Therefore, we will not consider the Petitioner's materially changed proposed endeavor and will only address his initial proposed endeavor of being an airline transport pilot and instructor.

In addressing the first prong of the *Dhanasar* framework, the Petitioner highlighted his education and experience. The Petitioner also submitted a Professional Development Plan that outlines his career development goals in the U.S. aviation industry such as becoming a certified flight instructor within 48 months after his start date with [redacted] Yet, the Petitioner's education, training, skills, and experience are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. As such, while a Petitioner's background may be helpful in describing the nature of their field and prior work, it is not sufficient to establish the national importance of his proposed endeavor. Likewise, the Petitioner's reliance on his prior work experience does not establish the broader implications of his proposed endeavor as he has not shown how his prior work had broad implications to the field beyond the benefits realized by his former employers.

In addition, the Petitioner stated that since he plans to continue flying until he is 65 years old or older, he "can bring considerable revenue for the United States" and he asserted that he has "already invested in [the] U.S. economy more than $20,000." While any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the asserted potential prospective impact of his proposed endeavor stands to offer broader implications in his industry or to generate substantial positive economic effects in the United States as a whole.

The Petitioner also referenced his letters of recommendation. The authors praise the Petitioner's abilities and the personal attributes that make him an asset as an airline pilot in the aviation industry. For instance, one letter states that the Petitioner "carried out important functions in flight being responsible for performing various pre-flight, in-flight and post-flight checks of the aircraft systems, creating and adjusting flight paths to ensure safe operation of flight as both pilot-flying and pilot-monitoring" and he "is not only a highly-demanded pilot, but is more than ready to continue to advance his proposed endeavor in the United States." Another letter states that the Petitioner "has the innovative spirit and the passionate team player mindset that would thrive in any organization" and "[h]is performance is reliable and safe, and his presence in the cockpit creates comfortable working environment." While the letters evidence the high regard the Petitioner's colleagues have for him and his work, they do not offer persuasive detail concerning the impact of his proposed endeavor or establish how such an impact would extend beyond his employer and its clients. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Matter of Dhanasar*.

Finally, even if we were to consider the Petitioner's endeavor described in response to SCOPS' RFE, we would conclude that the record does not establish the national importance of the proposed endeavor. For example, while we agree with the Petitioner's assertion that "[n]ational importance under *Dhanasar* does not require completed outcomes, nationwide adoption, or government sponsorship," the Petitioner has not sufficiently established how the potential prospective impact of his proposed endeavor would extend beyond his employer and its clients to lead to broader implications within the aviation industry. We acknowledge the quantified national-impact analysis and detailed implementation plan in the record, but the Petitioner has not provided information sufficient to illustrate how he will realize his goal to "transform conceptual AI research into certifiable, safety-assured cockpit applications" and for us to evaluate the potential prospective impact of his endeavor. For instance, in his plan, the Petitioner states that he will "engage with University of Washington Boeing Advanced Research Collaboration (BARC) to explore flight-data modeling for human-AI teaming" and will "[p]articipate in AI-assisted flight-test data collection and simulation modeling in collaboration with BARC and other FAA-aligned laboratories." He also states he will "[c]ollaborate with NASA Airspace Operations Laboratory and FAA Tech Center to test human-machine trust metrics." However, the record does not include any evidence such as letters or contracts from BARC, NASA, or any FAA-aligned laboratory confirming that they will work with the Petitioner and the potential impact of his endeavor. Moreover, the Petitioner has not described how he will apportion his time between working as an airline transport pilot and pursing the planned activities listed in his plan such as "[b]egin International Tests Pilots School" and "[c]onduct initial AI-behavior observation experiments." Nor has he detailed whether he will focus on one of these activities instead of the other. The Petitioner must resolve this inconsistency and ambiguity in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

III. CONCLUSION

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address his eligibility under the remaining prongs, and we hereby reserve them. *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 alternate issues on appeal where an applicant is otherwise ineligible). The burden of proof is on the Petitioner to establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that he has not established eligibility for 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 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.