U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43130302

Date: MAY 21, 2026

Appeal of Service Center Operations Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification on behalf of the Beneficiary as an advanced degree professional, as well as a national interest waiver of the job offer requirement attached to this classification. *See* section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

The Service Center Operations (SCOPS) denied the petition, concluding although the Beneficiary qualified as an advanced degree professional, the Petitioner 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*.

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,[1] 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 Beneficiary's proposed endeavor is to continue to work as a port manager for the Petitioner in [redacted] Rhode Island. The Petitioner explains that the Beneficiary will be "responsible for managing the company's local port office, liaising with customers and ensuring their requirements are fulfilled" and he will coordinate "all aspects of a vessel port call and oversee[] all operational matters relating to the port office."

A. EB-2 Classification

The Beneficiary submitted his foreign English and German languages and literature degree and academic transcripts, along with a credential evaluation stating that he has the foreign equivalent of a U.S. master's degree in foreign languages and literature. SCOPS determined that the Beneficiary qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether he qualifies for and merits a waiver of the job offer requirement in the national interest.

B. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Id.* The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* SCOPS determined that the Beneficiary's proposed endeavor was of substantial merit, and we agree. However, SCOPS concluded the Petitioner did not establish that the Beneficiary's proposed endeavor has national importance.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we noted that, in assessing national importance, "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.

[1] *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).

On appeal, the Petitioner asserts the evidence in the record clearly establishes the national importance of the endeavor but SCOPS ignored all of the evidence submitted in support of the petition, including documentation from the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA), the U.S. Department of Transportation (DOT), The American Association of Port Authorities (AAPA), as well as an expert opinion letter and letters of recommendation.

Regarding the documentation from CISA, DOT, and AAPA, SCOPS' decision referenced these articles and industry reports in multiple instances and explained why SCOPS found such evidence to be insufficient to establish eligibility under the first prong of the *Dhanasar* framework. The articles and industry reports discuss the importance of port operations, their impact on the economy, and national initiatives, including the Bipartisan Infrastructure Law and the Transportation System Sector-Specific Plan. However, as noted by SCOPS, when determining whether the proposed endeavor has 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* at 889. Thus, while we acknowledge that the port and transportation industry is important, this factor alone is insufficient to establish the national importance of his proposed endeavor.

The Petitioner claimed that the Beneficiary's proposed endeavor would have a significant impact on the U.S. economy, as well as improve the overall environmental sustainability "as port and maritime operations have a significant environmental impact." The Petitioner, however, has not provided sufficient evidence demonstrating that the Beneficiary's proposed endeavor would operate on a scale rising to the level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any basic economic activity has the potential to positively impact the economy, the Petitioner has not demonstrated how the potential economic activity of the Beneficiary's specific endeavor stands to generate substantial positive economic effects in the region where he will operate or in other parts of the United States. 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. *Id.* at 893. Here, we conclude that the Petitioner has not shown that the Beneficiary's proposed endeavor stands to sufficiently extend beyond the company and its clientele to impact his field, the port and transportation industry, the U.S. economy, or U.S. societal welfare more broadly at a level commensurate with national importance.

In addition, the Petitioner mentioned that there is a shortage of project management workers in the United States. The record includes a report by the Project Management Institute which highlights the critical project management-oriented occupations shortage faced nationally. However, the national shortage of project management professionals is not, in and of itself, sufficient to establish the national importance of the Beneficiary's endeavor. Further, the U.S. Department of Labor directly addresses U.S. worker shortages through the labor certification process.

Moreover, we reviewed the expert opinion letter from an international port and maritime consultant. In addressing the first prong of the *Dhanasar* framework, the author is very general, significantly focuses on the importance of the port and transportation industry, the impact this industry plays in the U.S. economy, and national initiatives. However, while the letter includes the Beneficiary's key responsibilities as a port manager, the letter does not contain sufficient information and explanation

of the Beneficiary's proposed endeavor, nor does the record include adequate corroborating evidence, to show that his specific proposed work in the port and transportation industry offers broader implications in his field or substantial positive economic effects for our nation that rise to the level of national importance. The letter therefore is insufficient to establish the national importance of the Beneficiary's specific proposed U.S. work. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988).

Finally, we also reviewed the letters of recommendation. The authors praise the Beneficiary's abilities and the personal attributes that make him an asset in the port and transportation industry. For instance, one letter states that the Beneficiary "is reliable, extremely organized, hardworking, and able to work well under pressure. He has got excellent communication skills. [The Petitioner] is flexible and willing to work on any project that is assigned to him." Another letter states that the Beneficiary "possesses solid writing skills that have enabled [him] to complete quality correspondence. He also has the analytical skills to diagnose any kind of problems occurred while vessel's port call." While the letters evidence the high regard the Beneficiary'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 Beneficiary's eligibility under the first prong of *Dhanasar*.

III. CONCLUSION

Because the Petitioner has not established the Beneficiary's eligibility under the first prong of the *Dhanasar* test, we need not address the Beneficiary's 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 the Beneficiary 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 the Petitioner has not established the Beneficiary's 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.