U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40127277

Date: NOV. 3, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a describing himself as an airline pilot and engineer, 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).

SCOPS denied the petition, concluding that the record did not establish the Petitioner's eligibility for the requested national interest waiver. The matter is now before us on appeal. 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States 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. 8 C.F.R. § 204.5(k)(2).

Once a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *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 a 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.

II. ANALYSIS

The Director determined that the Petitioner qualified for the underlying EB-2 classification as a member of the professions holding an advanced degree. Therefore, the remaining issue is whether the Petitioner established eligibility for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with the Director's conclusion that the proposed endeavor has substantial merit as it falls within the range of areas of substantial merit, namely business. *Id.* However, while we agree with SCOPS' determination that the Petitioner established the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner stated that he is an aviation professional with five years of experience in pilot education and safety standards. He explained his proposed endeavor as follows:

> My proposed endeavor is to create novel pilot training methodologies within the US aviation industry to improve operations and elevate safety standards across the field. I will do so by leveraging my extensive experience in pilot education and training to introduce innovative approaches that will reshape how pilots are prepared for the skies, offering a dynamic perspective on diverse flying techniques. My work will focus on developing pilots' core competencies, as well as cultivating their ability to navigate unforeseen challenges with confidence and skill. Moreover, by prioritizing skill refinement, promoting safe operational practices, and simulating real-world scenarios, my initiative is poised to bolster safety standards and elevate the aviation sector. Additionally, I plan to share my findings through presentations at relevant conferences.

The Petitioner pointed to the Federal Aviation Administration's (FAA) Instructor's Handbook and asserted his proposed endeavor would "help address the challenges of ineffective instructional approaches and enhance the transformation of learner pilots into confident and proficient aviators," reasoning that he would "prioritize scenario-based training and higher-order thinking skills." The Petitioner indicated his endeavor would hold national importance by "protecting public safety in

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

maintaining the integrity of the US aviation sector." The Petitioner pointed to executive branch public releases highlighting proposed actions and investments to maintain and improve aviation safety asserting that this supported the national importance of his endeavor. The Petitioner emphasized shortages of qualified professionals in the aviation industry and contended that his proposed endeavor would address this "critical need of the nation." In addition, the Petitioner indicated that he planned to establish a company in a historically underutilized business zone (HUBZone) in [redacted] Florida, noting this further demonstrated the national importance of his proposed endeavor.

SCOPS later issued a request for evidence indicating the submitted evidence did not sufficiently establish the national importance of his proposed endeavor. SCOPS noted that while the Petitioner's work in the aviation industry appeared to have merit and confirmed the importance of pilots and their instructors, they further stated that it was not clear how the employment of one pilot/instructor would have a substantial economic impact. SCOPS reasoned that a proposed endeavor being in a major or critical industry does not alone demonstrate national importance. As such, SCOPS requested that the Petitioner submit a more detailed description of his proposed endeavor and its asserted national importance, including documentary evidence to demonstrate its potential prospective impact.

In response, the Petitioner emphasized that the strengthening of safety in the aviation industry was a matter of national importance as reflected in presidential memorandums. The Petitioner stated his proposed endeavor would "complement the U.S. government's commitment to upholding the highest safety standards and promoting merit-based hiring in aviation." The Petitioner explained that his endeavor would "strengthen U.S. leadership in pilot trainings by minimizing safety vulnerabilities through targeted, high-precision pilot instruction" consistent with an FAA "call to action." The Petitioner pointed to an FFA Aviation Workforce Development Grant Program for Aircraft Pilots, among other FAA initiatives, implemented to address anticipated pilot shortages and safety issues within the industry. He asserted that this demonstrated the U.S. government's interest in elevating the educational standards of aviation training, stating that his endeavor would directly contribute to this need.

The Petitioner further asserted that his proposed endeavor would have significant potential to employ U.S. workers and have other substantial economic effects in an economically depressed area. The Petitioner highlighted the overall economic impact of the aviation industry, indicating his endeavor would "enhance the efficiency, reliability, and competitiveness of air operations, ultimately contributing to economic stability and growth." The Petitioner also discussed initiatives put in place by the State of Florida to improve aviation safety, stating he would "drive significant improvements in aviation safety, this improving Florida's competitiveness and stability in the industry." The Petitioner emphasized his business plan and its intention to directly contribute to improving employment in [redacted] Florida, an area comprised of 6 of the 427 HubZones within the state.

In concluding that the Petitioner did not establish the national importance of his proposed endeavor, SCOPS stated that although he demonstrated that aviation safety was a matter of public concern by federal agencies, such as the FAA, he did not sufficiently establish that his largely speculative training program would have broad national implications or influence in the field beyond his proposed company's clientele. SCOPS also acknowledged the Petitioner's intention to establish an aviation training company in a HUBZone but indicated that its hiring projection did not reflect an economic impact rising to the level of national importance.

On appeal, the Petitioner contends that SCOPS improperly conflated his proposed endeavor with his employment and his associated duties, focusing more on the second prong of *Dhanasar* rather than the first. The Petitioner again asserts that his proposed endeavor would "enhance the quality and consistency of pilot training related to safety regulations" and "mitigate the primary cause of aviation accidents while also supporting the broader infrastructure or air travel by fostering safer, more sustainable, and [a] more resilient aviation workforce." The Petitioner states that the evidence demonstrates his endeavor would impact a matter that government entities have described as having national importance, as supported by several FFA and other executive branch initiatives. The Petitioner also indicates that SCOPS was mistaken regarding its job projections after five years, indicating this projection was 20 employees, rather than the 11 discussed in the denial. The Petitioner states that the hiring projections for his proposed aviation training company reflect the endeavor's substantial economic effect on an economically depressed area.

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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 provided generic and unsupported statements related to the asserted potential prospective national impact of his proposed endeavor. For instance, the Petitioner stated that his proposed endeavor would "create novel pilot training methodologies within the US aviation industry," but he provided little detail as to how these methodologies would be different than those already utilized within this critical industry. The Petitioner likewise indicated that he would "introduce innovative approaches that will reshape how pilots are prepared for the skies." However again, he provided little detail and documentation to substantiate that these approaches to pilot training would be innovative. In fact, as discussed by SCOPS, the Petitioner's proposed pilot training methods appeared to be wholly prospective, indicating that they had yet been fully developed, leaving substantial uncertainty as to whether they would have a potential prospective national impact. For example, the Petitioner stated that he would report on his "findings" at unidentified presentations and conferences, suggesting he had not yet fully formulated his pilot training programs. It is difficult to discern how we are to determine that the Petitioner's proposed endeavor would have a potential prospective national impact when it has yet been created. The Petitioner submitted numerous materials setting forth priorities and information on pilot training, such as the Federal Aviation Administration's (FAA) Instructor's Handbook, but his proposed endeavor appeared to be a reiteration of the priorities and methods related to pilot training discussed in these sources, rather than the communication of novel or innovative methods.

There was little indication, as discussed by SCOPS, how one pilot training business would have a national level impact on "ineffective instructional approaches" the Petitioner he did not fully describe. Likewise, the Petitioner indicated that his business would "prioritize scenario-based training and higher-order thinking skills," aspects that a reasonable person would think are already included in the

training of aviators. The Petitioner further stated that he would focus on developing the "core competencies" of pilot trainees and cultivate "their ability to navigate unforeseen challenges with confidence and skill." Again, the Petitioner's claimed proposed endeavor reads as an explanation of the very nature of pilot training, rather than articulating new innovative methods in this critical, massive industry. In sum, the Petitioner did not sufficiently describe and document his proposed pilot training services and how they would be innovative and "reshape how pilots are prepared for the skies." The Petitioner does not sufficiently detail and document how his work in the aviation training would be materially different from any other similar experienced employee, leaving doubt as to likelihood of its potential prospective national impact. Generalized conclusory statements that do not identify a specific impact on the field have little probative value. *See e.g., 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). In *Dhanasar,* we determined that the petitioner's teaching activities did not rise to the level of national importance because they would not impact his field more broadly. *Dhanasar* at 893. Here too, the record does not demonstrate that the Petitioner's proposed endeavor stands to sufficiently impact the aviation field more broadly at a level commensurate with national importance.

In fact, the Petitioner appeared to change the nature of his asserted endeavor in response to the RFE, discussing new sources and materials, including a focus on "merit-based hiring in aviation." However, the Petitioner did not sufficiently explain how the training services of his business would have a national level impact on the hiring practices in the large aviation industry. The Petitioner emphasizes a FFA Aviation Workforce Development Grant Program for Aircraft Pilots but did not indicate whether or not he applied or received any such grant. An applicant or petitioner must establish that he or she remains eligible for the benefit sought from the time of filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1); Matter of Kazemi, 19 I&N Dec. 49, 51 (BIA 1984) ("We have long held that an application for admission to the United States is a continuing application and admissibility is determined on the basis of the law and the facts existing at the time the application is finally considered.").

In a provided business plan, the Petitioner stated that commercial aviation "on average drives 5% of GDP [gross domestic product]…the equivalent of $1.25 trillion in 2022" and that there are "more than 25,000 flights" each day. These numbers not only illustrate the massive size of the aviation industry, but its various components, leaving question as to the Petitioner's contention that he could have a national level impact on pilot training, while also impacting pilot shortages and the overall safety of the industry. For example, the Petitioner provided an industry report reflecting that the aviation industry would need approximately 284,000 new pilots over the next ten years; as such, it is questionable that one pilot training service would have a material impact on such a large national issue. In sum, the Petitioner did not provide sufficient detail as to his proposed plans and how they would have a potential prospective impact nationally, other than establishing one aviation training service in Florida, presumably, among many. Again, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889.

The Petitioner also regularly points to his "extensive experience," but does not sufficiently articulate how his experience is extensive. In fact, the evidence reflects that the Petitioner has approximately five years of experience in professional aviation, and his resume indicated that he only worked as an

aviation instructor for about one year. It is reasonable to conclude that there are numerous aviation training professionals with extensive experience as well as businesses devoted to this endeavor. While we acknowledge that the petitioner's expertise and record of success in previous positions are considerations typically under *Dhanasar*'s second prong, the Petitioner's assertion that he will reshape the entire face of aviation training appears questionable given his relatively modest experience in the industry, particularly given the largely prospective nature of his plans. The Petitioner must resolve 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).

The record also does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 890. The Petitioner emphasizes that his proposed endeavor would directly contribute to improving employment in [redacted] Florida, an area he claims comprises 6 of the 427 HubZones within the state. On appeal, the Petitioner asserts SCOPS was mistaken regarding its jobs projections after five years, indicating this was 20 employees, rather than the 11 discussed in the denial. However, the Petitioner's jobs projections do not reflect a substantial positive economic effect on a HubZone as asserted. The Petitioner provided data on the six discussed [redacted] HubZones indicating that they had an approximate population of 17,000 people. Therefore, it is not clear how the potential employment of 20 individuals over a five-year period represents a significant potential to employ U.S. workers or a substantial positive economic effect on the discussed HubZones. Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, he has not provided sufficient explanation of the prospective impact directly attributable to his proposed work or established how his endeavor would substantially impact an economically depressed area. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of 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. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third prongs. *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.