U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40357018

Date: NOV. 24, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a pilot and certified flight instructor, 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).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that a waiver of the classification's job offer requirement, 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

SCOPS determined that the Petitioner is a member of the professions holding an advanced degree.[2] The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework. While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual 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. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

The Petitioner in this instance states that her proposed endeavor is to work as a Federal Aviation Administration (FAA) designated pilot examiner (DPE). She claims that as a DPE she will "expand [her] impact on a national level by evaluating and certifying new pilots, addressing delays in the certification process, and ensuring that only well-prepared pilots enter the aviation industry."

SCOPS found, and we agree, that while the Petitioner demonstrated that her proposed endeavor has substantial merit, she did not establish that the endeavor is of national importance, as required by the first *Dhanasar* prong. SCOPS noted that in conducting a first-prong analysis of national importance, we focus on the Petitioner's specific endeavor, rather than the importance of the field or profession in which the Petitioner will work. SCOPS also acknowledged the Petitioner's submission of an expert opinion letter which highlighted her credentials and qualifications, discussed the proposed endeavor's potential to stimulate job creation and economic growth, and listed data from the FAA about the aviation industry. However, SCOPS determined that the letter did not explain how the Petitioner's specific endeavor would result in the level of "substantial positive economic effects" contemplated in *Dhanasar*. And despite acknowledging the Petitioner's submission of government reports and a congressional letter discussing government initiatives concerning DPEs' roles within the aviation industry, SCOPS deemed such evidence insufficient to show how the Petitioner's specific endeavor to work as a DPE would impact those initiatives. In sum, SCOPS did not find that the Petitioner's endeavor would have economic, societal, or cultural benefits on a national scale or that the endeavor would have national or global implications within the field of the endeavor – in this case aviation.

[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).

[2] The record demonstrates that the Petitioner holds a Master of Science in Aeronautics degree awarded in 2022. *See* 8 C.F.R. § 204.5(k)(3)(i)(B).

On appeal, the Petitioner resubmits previously submitted evidence and argues that SCOPS made "fundamental errors of law and fact." However, the Petitioner's claim that SCOPS made "multiple" erroneous references to the requirements of an unrelated visa category is not corroborated in our review of the decision.[3] For reasons discussed in the analysis below, we also disagree with the Petitioner's assertion that the facts in this case and previously submitted evidence are sufficient to satisfy her evidentiary burden.

As previously stated, the Petitioner's endeavor is to work as a DPE. She highlights the significance of this "public-facing, quasi-regulatory function," stating that she would "fulfill [a] statutory mandate of ensuring uniform, high-quality pilot certification nationwide" and that her work is critical and offers "an undeniable national public benefit." While we agree that the DPE offers a valuable service to the individuals she trains and certifies, the Petitioner has not provided evidence showing that her specific endeavor to work as a DPE would broadly impact the aviation industry. In fact, the Petitioner appears to have broadly considered the cumulative impact of DPEs in general rather than focusing on her specific endeavor and explaining how her individual work as a DPE stands to broadly impact aviation safety. As such, the Petitioner's claim that her endeavor "addresses a critical component of aviation regulation" merely indicates that the endeavor is in a sector of public concern, i.e., aviation safety, but it does not establish that the endeavor would broadly impact that sector or have broader implications within the aviation field.

The Petitioner also points to the "small number of DPEs in the United States," arguing that each DPE plays a critical role with "national implications." While we do not discount the significance of a DPE's role and duties, the Petitioner has not established that her specific endeavor has national implications or broader implications in the field, nor has she established that she would operate on a such a scale that the positive impact from her endeavor would rise to the level of national importance. Further, although the Petitioner argues that her endeavor will address the overall shortage of DPEs "by expanding the pool of examiners," she has not established that a national shortage of professionals in her field necessarily demonstrates the national importance of her proposed endeavor, since the shortage does not in itself establish the endeavor's impact. Specifically, the Petitioner has not sufficiently analyzed and substantiated how one DPE will improve a national shortage or trigger broad implications across a whole field.

And while the Petitioner provided articles and reports containing helpful background information and establishing the substantial merit of the proposed endeavor, none of the reference materials discuss the Petitioner's specific proposed endeavor. As noted earlier, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner also provided recommendation letters from "industry experts" attesting to her experience, abilities, and skill. However, the Petitioner's personal and professional qualifications relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* The issue here is whether the specific endeavor the Petitioner proposes to undertake – that of working as a DPE in the field of aviation – has national importance under *Dhanasar's* first prong.

[3] Although the previously issue request for evidence contains such a refence, the same is not true of the denial itself.

In sum, the Petitioner has not demonstrated that her proposed endeavor to work as a DPE extends beyond the pilots she would train and certify to impact the aviation field or the United States more broadly at a level that is commensurate with national importance.

Because the documentation in the record does not sufficiently establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve her appellate arguments regarding her eligibility under the second and third prongs. *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).

III. CONCLUSION

As the record does not establish that the Petitioner has met the requisite first prong of the *Dhanasar* analytical framework, we find that she is not eligible 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 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.