U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40283283

Date: NOV. 24, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a supply chain manager and entrepreneur in the soybean processing industry, 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 although the Petitioner qualified as an advanced degree professional, she 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 Petitioner's proposed endeavor is to establish a company that provides comprehensive consulting services and structured training and certification programs in the soybean processing industry. She states that she "aims to enhance the performance and sustainability of the agricultural sector by reducing waste, improving resource utilization, and increasing operational transparency."

A. EB-2 Classification

The Petitioner submitted her foreign industrial engineering degree and academic transcripts, along with a credential evaluation stating that she has the foreign equivalent of a U.S. bachelor's degree in industrial engineering. She also submitted a letter showing over five years of progressive experience. SCOPS determined that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree. We agree. The only issue on appeal is whether she 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 Petitioner's proposed endeavor was of substantial merit, and we agree. However, SCOPS concluded the Petitioner did not establish that her proposed endeavor has national importance.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an 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 889-890.

On appeal, the Petitioner contends SCOPS wrongly applied the standard of proof in the decision. Except where a different standard is specified by law, the "preponderance of the evidence" is the

[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).

standard of proof governing immigration benefit requests. *See Matter of Chawathe*, 25 I&N Dec. at 375. Accordingly, "preponderance of the evidence" is the standard of proof governing national interest waiver petitions. *See generally 1 USCIS Policy Manual*, E.4(B), https://www.uscis.gov/policy manual. While the Petitioner asserts that she provided "ample evidence" to demonstrate her eligibility for a national interest waiver, she does not further explain or identify a specific instance in which SCOPS applied a standard of proof other than the preponderance of evidence in denying the petition.

Upon review, we conclude that the Petitioner has not established that her endeavor has national importance. For instance, the Petitioner highlights that her business plan outlines the potential economic implications of her endeavor, but she did not provide sufficient explanation or evidentiary support for the bases of her figures. However, even assuming the accuracy of the numbers, the Petitioner still did not demonstrate how her claimed employment and revenue projections show a significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for the [redacted] Illinois region, where she will begin operations, or the nation. For example, although she forecasts revenue of $530,000 in the first year of operation, increasing to $2,200,000 by the fifth year, she did not establish the significance of this data or explain how the benefits to the regional or national economy would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Moreover, while the business plan claims she will employ four employees in the first year of operation, increasing to 15 employees by the fifth year, she did not demonstrate the relevance of these numbers or show how such employment figures would utilize a significant population of workers in the area or would substantially impact job creation and economic growth, either regionally or nationally.

The Petitioner also points out that the proposed endeavor will focus on economically depressed areas in Illinois. However, the Petitioner provided little detail and documentation to sufficiently demonstrate that her consulting services would likely have a national impact on economically depressed areas in Illinois as claimed. While any increased business activity has the potential to positively impact the economy and thereby societal welfare to some degree, the Petitioner has not offered a sufficiently direct connection between her proposed endeavor and any demonstrable economic or societal effects to establish her proposed endeavor's national importance.

In addition, the Petitioner references a letter of support from [redacted] and states that this letter's assessment highlights how the Petitioner's "expertise directly supports critical U.S. national priorities" such as the U.S. Department of Agriculture's (USDA) Innovation Strategy. However, merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Id.* at 889. Instead, 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.* Thus, while we acknowledge that the soybean processing industry is important, this fact is insufficient to establish the national importance of her proposed endeavor.

She also references a letter of recommendation from [redacted] commending her skills and knowledge and discussing her record of success in efforts related to her proposed endeavor which pertains more to the second prong. Moreover, while the letter discusses the proposed endeavor and its claimed benefits, the author's opinion is largely conclusory and does not adequately

explain how the Petitioner's work would produce such nationally important impacts. For example, the author opines that the Petitioner's company will "help U.S. plants lower conversion costs. . . improve process reliability and efficiency. . . strengthen sustainability . . . and train the workforce in Lean methodologies, embedding a culture of continuous improvement that multiplies long-term gains." But beyond these generalizations, the author provides little explanation or corroborating evidence directly linking the Petitioner's company to these claimed benefits, the economy's growth, industry wide impact, or other substantial positive economic or societal effects. Instead, the author's observations rely more on generalizations about the results of typical business activity, rather than providing probative information about how the Petitioner's particular endeavor would specifically accomplish these results and how any impact would sufficiently extend beyond the direct clients that the Petitioner will serve to rise to the level of national importance.

Moreover, on appeal, the Petitioner submits an expert opinion letter from a professor of engineering management at [redacted]. USCIS may, in its discretion, use as advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national's eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*, *see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). Here, much of the content of the expert opinion letter lacked relevance and probative value with respect to the national importance of the Petitioner's proposed endeavor. In addressing the first prong of the *Dhanasar* framework, the author focuses on the importance of the U.S. agricultural industry, specifically the soybean sector, and how the Petitioner's experience as an industrial engineer would be beneficial to the United States. It also broadly claims the Petitioner's endeavor will have a significant impact on employment, state and national implications, and enhance societal welfare. In addition, the author highlights that the Petitioner's proposed endeavor aligns with national initiatives, including the USDA and the U.S. Department of Energy's Industrial Efficiency & Decarbonization strategies. However, as noted above, merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Matter of Dhanasar* at 889. Here, the letter does not contain sufficient information and explanation of the Petitioner's endeavor, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work in the soybean processing industry offers broader implications in her field or substantial positive economic effects for our nation that rise to the level of national importance.

III. CONCLUSION

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address her 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 she 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 she 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.