U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37196137

Date: SEP. 15, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, an education and public safety specialist and entrepreneur in the field of security, 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, 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*.

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[1] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. 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. 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

A. EB-2 Visa Classification

As indicated above, the 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. SCOPS determined that the Petitioner is a member of the professions holding an advanced degree. However, upon de novo review, we disagree.

As evidence of her advanced degree, the Petitioner submitted a copy of her diploma, without a transcript, for the *Titulo de Licenciado* in physical education, as well as copies of her certificate and transcript for completing a *latu sensu* postgraduate course in Education for Childhood: Early Childhood Education and the Initial Years of Elementary School. The Petitioner did not submit a credential evaluation to establish she possess the equivalent of a U.S. bachelor's degree.

According to the American Association of Collegiate Registrars and Admissions Officers' (AACRAO) Electronic Database for Global Education (EDGE):

[1] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

[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).

> The *2-* to *3-year Título de Licenciado* (*Licenciatura*) represents attainment of a level of education comparable to 2 to 3 years of university study in the United States. Credit may be awarded on a course-by-course basis. The *4-year Título de Licenciado* (*Licenciatura*) represents attainment of a level of education comparable to a bachelor's degree in the United States.[3]

Without the transcript or credential evaluation, the Petitioner has not established that her foreign degree is a *4-year Título de Licenciado* and therefore is equivalent to a U.S. bachelor's degree.

Regarding the *latu sensu*, AACRAO EDGE states that these programs are for professional development and specialization, and lead toward professional certificates instead of graduate degrees.[4] Therefore, a *lato sensu* certificate is not the foreign degree equivalent of a U.S. master's degree.

For the above reasons, the Petitioner has not established by a preponderance of the evidence that she is a member of the professions holding an advanced degree and we withdraw SCOPS' determination on this issue.

In addition, while the Petitioner initially claimed she qualifies for EB-2 classification as an individual of exceptional ability, SCOPS did not address this issue. Since the evidence in the record does not establish by a preponderance of the evidence that the Petitioner is eligible for, or otherwise merits, a national interest waiver as a matter of discretion, we will reserve the issue of whether she qualifies for EB-2 classification as an individual of exceptional ability for future consideration should the need arise. *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).

While we conclude that the Petitioner has not established that she is an advanced degree professional under 8 C.F.R. §204.5(k)(3)(i), because the Petitioner was not on notice of these issues, this does not form the basis of our dismissal. The Petitioner must address and resolve this in any future filings. We will now discuss whether the Petitioner has established eligibility for a national interest waiver.

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[3] We consider EDGE to be a reliable source of information about foreign credential equivalencies. *See Confluence Intern., Inc. v. Holder,* Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). *See also Viraj, LLC v. Holder,* No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013). For more information, visit https://www.aacrao.org/edge.

[4] *Id.*

B. National Interest Waiver

As a preliminary matter, the Petitioner contends on appeal that SCOPS "failed to provide details on whether all elements of the national interest waiver's three-prong test were met" and notes that SCOPS did not address the second prong, whether the Petitioner is well-positioned to advance her proposed endeavor. The Petitioner asserts that the "omission is a critical flaw in the decision-making process" and references the USCIS Policy Manual and the Administrative Procedure Act. We acknowledge that SCOPS did not provide an analysis of the second prong. An officer must explain specific reasons for denial. 8 C.F.R. § 103.3(a)(i). However, we will not remand on this basis. As we discuss below, we conclude that the record does not establish that the proposed endeavor has national importance; therefore, the Petitioner is not eligible for a national interest waiver.

Moreover, the Petitioner asserts on appeal that in denying the petition, SCOPS "is applying the standard of proof of criminal cases, which is '***beyond a reasonable doubt***' rather than "the standard of proof applicable to the instant case, which is '***preponderance of the evidence***.'" (Emphasis in original). However, we note except where a different standard is specified by law, the "preponderance of the evidence" is the standard of proof governing immigration benefit requests. *See Matter of Chawathe*, 25 I&N Dec. at 375; *see also Matter of Martinez*, 21 I&N Dec. 1035, 1036 (BIA 1997); *Matter of Soo Hoo*, 11 I&N Dec. 151, 152 (BIA 1965). Accordingly, the "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. Although the Petitioner asserts that she has provided sufficient evidence to demonstrate her eligibility for a national interest waiver, she does not specify, as required, in what way SCOPS applied this stricter standard in denying the petition. An appeal must specifically identify any erroneous conclusion of law or statement of fact in the unfavorable decision. *See* 8 C.F.R. § 103.3(a)(l)(v).

1. Substantial Merit and National Importance

We will now address the first prong, substantial merit and national importance, which 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 proposed to establish a company "that will specialize in providing security services to businesses and individuals throughout the United States" and "will also provide training to individuals wanting to pursue careers as security officers."

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. SCOPS also concluded that the Petitioner did not demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of the job offer, and thus a labor certification.

Regarding national importance, the Petitioner contends that her "endeavor not only has significant economic impact but also provides considerable social benefits aligned with pressing priorities." The record includes a business plan, letters of recommendation, and articles about crime and security. As mentioned, in determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. 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, as 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.

Here, the Petitioner contends that SCOPS' decision to deny her petition "appears to confine the national importance to economic factors alone, overlooking the broader implications" of her proposed endeavor on public safety, education, and school security. She asserts that her endeavor will "address these challenges, contributing to a safer learning environment for children across the United States." Specifically, she claims that her endeavor will address "the gap in safety protocols and preventative training in private schools and early childhood education centers" by "developing tailored safety plans for these underserved educational institutions" and "by providing specialized training and preventative security measures to schools." Although the Petitioner may demonstrate national importance based on the prospective societal impact of her proposed endeavor and not "economic factors alone," she submits little explanation or evidentiary support as to how her proposed endeavor would impact school safety on a national level. Likewise, the Petitioner has not sufficiently explained or provided evidence to substantiate that her implementation of safety practices within the education industry would have a potential prospective national impact on reducing the number of shooting incidents and other safety hazards within the education industry. While the record includes a business plan, it does not articulate how her achievement on public safety, education, and school security would extend beyond the company and its clients to impact her field more broadly on a level indicative of national importance. Notably, the business plan does not mention anything about security and safety in schools. Therefore, the Petitioner did not sufficiently substantiate that her proposed endeavor stands to result in broader implications at a level commensurate with national importance.

Further, upon review of the Petitioner's statements, we observe that she emphasizes her experience in educational and preventative security measure programs such as "Child Citizen" and "Civil Police Academy." Yet, the Petitioner's knowledge, 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. The issue here is whether the Petitioner has demonstrated, by a preponderance of the evidence, the national importance of her proposed endeavor.

She also references articles in the record about school shootings and contends her proposed endeavor aligns "with the national demand for more comprehensive security solutions in educational environments" and "existing federal priorities on school safety." The Petitioner states that "[b]y enhancing preventative measures in schools, [her] company contributes to the well-being of students, educators, and families, fostering a safer and more conducive learning environment." 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 security industry is important, this fact is insufficient to establish the national importance of her proposed endeavor.

Moreover, the Petitioner highlights staffing and revenue projections in the submitted business plan projecting that her company will create 120 direct jobs and pay wages of over $5 million within its first five years of operation. The Petitioner asserts that "the job creation that [her] endeavor will bring to the U.S. will present a significant impact in the U.S. economy through [Gross Domestic Product]." Importantly however, these employment and revenue projections are not supported by details showing their basis, nor do they demonstrate a significant potential to either employ U.S. workers or to substantially impact the regional or national economy. Specifically, the record does not support that the creation of 120 additional jobs in this sector or the expected revenue generated by the company will have a substantial economic benefit commensurate with the national importance element of the first prong of the *Dhanasar* framework.

Finally, we reviewed the letters of recommendation in the record. The authors praise the Petitioner's abilities and the personal attributes that make her an asset in the security industry. While they evidence the high regard the Petitioner's colleagues have for her and her work, they do not offer persuasive detail concerning the impact of her proposed endeavor or establish how such an impact would extend beyond her company and its clients. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

2. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. To determine whether they are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890.

As the Petitioner has not established that she meets the first prong of the *Dhanasar* framework, she is not eligible for and does not merit a national interest waiver. However, we will briefly discuss whether she is well positioned to advance her proposed endeavor. We first note that her *Titulo de Licenciado* in physical education is not related to her proposed endeavor of establishing a company "that will specialize in providing security services to businesses and individuals throughout the United States" and "will also provide training to individuals wanting to pursue careers as security officers." Moreover, the letter from an owner of a jiu-jitsu gym in Florida offering to hire the Petitioner to teach martial arts at the school is also unrelated to the proposed endeavor of establishing a security services company. Further, while the Petitioner highlights her work in the "Child Citizen" and "Civil Police Academy" projects and states that these experiences show her "ability to develop and implement programs that not only increase security but also build trust and foster preventative behaviors," the Petitioner has not demonstrated that her participation in two projects represents a record of success in her field or that it is otherwise an indication that she is well positioned to advance her proposed endeavor. For these reasons, the Petitioner has not established that she is well positioned to advance her proposed endeavor.

Because the Petitioner has not established eligibility under either the first or second prong of the *Dhanasar* test, we need not address her eligibility under the third prong, and we hereby reserve it. *See INS v. Bagamasbad,* 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. 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 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.