



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 28354973

Date: OCT. 16, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an aircraft mechanic, seeks classification as either a member of the professions holding an advanced degree or an individual of exceptional ability. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that a waiver of the job offer requirement is in the national interest. 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 immigrant 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.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. While neither 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 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 Petitioner proposes to work as an aircraft mechanic. The Director found that the Petitioner established only that the proposed endeavor has substantial merit. The Director determined that the Petitioner did not establish the endeavor's national importance, nor that he is well-positioned to advance the endeavor, nor that, on balance, waiving the job offer requirement would benefit the United States. The Director did not make a finding as to whether the Petitioner established eligibility for the underlying EB-2 classification.²

In determining that the Petitioner did not establish the national importance of the proposed endeavor, the Director found that the record did not show that the proposed endeavor will further human knowledge or translate into economic benefits for the United States, nor that the endeavor stands to have national implications within the field. The Director also noted that a general occupation does not constitute a proposed endeavor and that, in determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work, but rather the specific endeavor that the individual proposes to undertake.

On appeal, the Petitioner contests the accuracy of the Director's conclusions and claims that his endeavor does in fact have national importance. The Petitioner asserts that his past achievements demonstrate the potential prospective impact of his endeavor, stating that his work has been "fully disseminated into the Aircraft mechanic industry, to the extent of having impacted, additionally, limitless other fields . . ." and that "[e]ven a superficial reading of [the Petitioner's] professional history reveals that, upon evaluating his past achievements, his proposed endeavor also has a significant prospective impact." The Petitioner also claims that his proposed endeavor will help businesses ensure their aircraft are airworthy, increase passenger safety, save costs, and remain compliant with regulations. Finally, he claims that the aviation industry is critical to the United States economy, that the industry is projected to grow, and that there is a shortage of aviation professionals in the United States.

¹ See also *Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

² While we could remand the matter to the Director to make a finding as to the threshold question of the Petitioner's qualification for the underlying EB-2 immigrant classification, we agree with the Director that the Petitioner has not established the national importance of the proposed endeavor, and the Petitioner does not overcome this finding on appeal. Therefore, the Petitioner does not qualify for a national interest waiver, and we decline to reach and hereby reserve our opinion as to whether the Petitioner has established qualification for the EB-2 classification. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); 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 the applicant is otherwise ineligible).

In determining whether a 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, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

However, we conclude that the Petitioner's assertions do not overcome the Director's findings or establish the national importance of the proposed endeavor. First, the Petitioner refers on appeal only generally to the "profuse evidence" that demonstrates the Petitioner's "significant past achievements," rather than to any specific evidence in the record or any specific achievements in the field. In reviewing the record, we note that it contains evidence—including the Petitioner's educational documents, work experience letters, and evidence of his certifications and trainings—to help show that he is an experienced aircraft mechanic. However, the record does not contain evidence that the Petitioner's past achievements resulted in a broad impact on the aviation industry or the aircraft mechanic field, and the Petitioner's general, conclusory statements to the contrary are insufficient to meet his burden of proof.

We also note that while a petitioner's past work and achievements may be helpful in illustrating how they plan to carry out their proposed endeavor or its potential prospective impact, generally the focus of the first prong is on the proposed endeavor itself and not the petitioner. *See id.* Evidence of a petitioner's skills, expertise, and record of success generally relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the [noncitizen] and whether they are well-positioned to advance it. *Id.* The Petitioner must establish that his specific endeavor—to work as an aircraft mechanic—has national importance under *Dhanasar's* first prong. The Petitioner's claims related to his experience in the field do not demonstrate that his endeavor has the potential to impact the aviation field or the economy at a level commensurate with national importance.

Counsel's brief in response to the Director's request for evidence (RFE), the language of which was quoted again on appeal, lists many goals for the Petitioner's endeavor, such as maintaining the airworthiness of aircraft, ensuring passenger safety, saving costs, and remaining compliant with aviation regulations. But rather than establishing that the Petitioner's specific proposed endeavor has national importance, most of these objectives simply describe the typical occupational duties of an aircraft mechanic.³ Additionally, many of the Petitioner's claims regarding national importance, such as the importance of the aviation industry to the economy, the size and projected growth of the industry, and the potential shortage of experienced aviation professionals, relate to the aviation industry overall. In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, we focus on the "specific endeavor that the [noncitizen] proposes to undertake." *See id.* at 889. Upon de novo review, we agree

³ In determining national importance, the analysis focuses on what the petitioner will be doing rather than the specific occupational classification. For instance, although the petitioner in *Matter of Dhanasar* was an engineer by occupation, the decision discusses his specific proposed endeavor "to engage in research and development relating to air and space propulsion systems, as well as to teach aerospace engineering." *See generally*, 6 USCIS Policy Manual F.5(D)(1), <http://www.uscis.gov/policy-manual>; *see also Matter of Dhanasar*, 26 I&N Dec. at 891.

with the Director's conclusion that the Petitioner has not established that his proposed endeavor to work as an aircraft mechanic has the significant potential to extend beyond his employer to impact the aviation field or the U.S. economy at a level that rises to national importance.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, he is not eligible for a national interest waiver. We acknowledge the Petitioner's arguments on appeal as to the second and third prongs of *Dhanasar* but, having found that the evidence does not establish the Petitioner's eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prongs or the Petitioner's qualification for the EB-2 classification. See *INS v. Bagamasbad*, 429 U.S. at 25 (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); see also *Matter of L-A-C-*, 26 I&N Dec. at 526 n.7 (declining to reach alternative issues on appeal where the applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not met the national importance requirement of the first prong of *Dhanasar*. We therefore conclude that the Petitioner has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.