



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

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

In Re: 28808439

Date: OCT. 24, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an aircraft mechanic and technician, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding the Petitioner had not established eligibility for 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. 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, petitioners must 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. In addition, petitioners must show the merit of 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 that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver if:

- 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.

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).

II. ANALYSIS

As it relates to the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. At initial filing, the Petitioner's cover letter stated:

The [Petitioner] loves the aviation industry and his career. He intends to work in this area in the USA

. . . .

[The Petitioner] will provide aviation companies with several different services, including interior inspection for executive jets. He will also provide consulting and training services to companies and individuals in the U.S. market. Through those services, he will contribute to the U.S. economy by increasing the productivity and efficiency of aircraft manufacturing consulting and training activities. He will help companies receive certifications, maintain quality, comply with regulations and succeed in the aviation business industry.

The petitioner's experience under consideration fulfills this lack of professionals. His proposed endeavor offers his intimate knowledge in the field, where, with his extensive training and hands-on experience he is highly qualified to teach and implement his methods and strategies to other U.S. professionals.

In addition, the Petitioner's professional personal statement indicated:

I'm convinced that my technical knowledge and my constant improvement will be great assets to the United States. I've taken an impact on many people's lives, to whom I've developed personal and professional relationships during my whole journey in aviation. I've brought benefits and stood out in all the sectors I've worked in for leading with humbleness and ability to listen, and for using my power of persuasion for good. I've earned my positions in renowned institutions that I've worked in or were partners with.

In response to the Director's request for evidence, the Petitioner's cover letter claimed:

[The Petitioner's] proposed endeavor to provide his services in the field of aircraft manufacturing in the U.S. is in the demand and of national importance

. . . .

His vast experience allows him to share his knowledge with professionals in the related industry. That would be instrumental in leading U.S. businesses to sustainable growth and profitability. His credentials allow him to provide high quality services to clients, helping them make successfully execute [sic] capital projects, contributing to cost reduction and higher productivity. The increased income of U.S. businesses will benefit the nation's overall economy.

Moreover, the Petitioner's updated professional personal statement reflected:

I am sure that I left my name engraved in the memory of the companies where I worked at, not only professionally but also personally, and in the memory of people who had the pleasure of teaching, learning, and sharing responsibilities and decisions. I am also sure that I will leave my mark in the USA in the companies where I will work at, listening, respecting, giving new ideas, solving problems, leading, and certainly learning more and more.

The Director determined the Petitioner demonstrated the proposed endeavor's substantial merit but not its national importance. On appeal, the Petitioner maintains the national importance of his proposed endeavor of "[w]orking as an Aircraft Interior Technician in Florida, where [he] intends to work."

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." See *Dhanasar*, 26 I&N Dec. at 889. On appeal, the Petitioner argues the national implications of aircraft interior technicians, including safety and security, passenger experience, economic growth, competitiveness in the global market, and environmental sustainability. Here, the Petitioner must demonstrate the national importance of his specific, proposed endeavor of working within his field rather than the overall importance of the aviation industry and other related fields and topics.² In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and 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.

In addition, the Petitioner contends that he presented an expert opinion letter who found the proposed endeavor has national importance. The letter, however, makes the same arguments, discussed above, relating to the importance of the aviation industry and related topics rather than focusing on the national importance of the Petitioner's specific, proposed endeavor of working for an aviation company or business as a mechanic or technician. Furthermore, the letter does not explain how the Petitioner's particular employment would have broader implications for our country. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner did not demonstrate how his proposed endeavor of working for an aviation business or within the aviation industry largely influences the field and rises to the level of national importance. In *Dhanasar*, we determined the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Although the Petitioner indicates his submission of his professional plan, the Petitioner did not show how his particular employment services stand to sufficiently extend beyond his prospective employer, to impact the aviation industry or the U.S. economy more broadly at a level commensurate with national importance.

² The Petitioner's arguments relate more to the substantial merit aspect of the proposed endeavor rather than the national importance part.

Further, the Petitioner's references to his skills, expertise, abilities, and prior accomplishments relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor he proposes to undertake has national importance under *Dhanasar*'s first prong.

Finally, the Petitioner did not show how his employment would have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not reflect any benefits to the U.S. regional or national economy resulting from his employment would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. As such, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of his qualification under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.³

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

³ 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 alternate issues on appeal where applicants do not otherwise meet their burden of proof).