



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

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

In Re: 29022396

Date: JAN. 9, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, an aircraft mechanical maintenance specialist, seeks classification as an individual of exceptional ability. *See* 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, 8 U.S.C. § 1153(b)(2)(B)(i). 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 Texas Service Center denied the petition. The Director concluded the Petitioner did not qualify as an individual of exceptional ability. The Petitioner further determined that the Petitioner did not demonstrate his eligibility for a national interest waiver. 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 as the Petitioner did not establish that his proposed endeavor has national importance. Since this issue is dispositive, we decline to reach and hereby reserve the remaining issues. *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 an applicant is otherwise ineligible).

I. LAW

To establish eligibility for a national interest waiver, a 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.

If a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement “in the national interest.”

Section 203(b)(2)(B)(i) of the Act. While neither the 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 matter of discretion¹, 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, a native and citizen of Brazil, stated that his proposed endeavor was to “continue delivering benefits to the aviation industry via his endeavor in the area of Aircraft Mechanical Maintenance in the [United States],” specifically through a full-time position as an aircraft maintenance specialist with an aircraft maintenance provider, T-A-A-, Inc, based in Florida. The Petitioner indicated his work would be vital to the public safety because of the technical scrutiny and attention he would provide to commercial and private planes serviced by T-A-A-, Inc. The Petitioner emphasized his 23 years of experience and knowledge in the field of aircraft maintenance and how he would use this in the “training of new technical professionals for improvement of the practice on the whole” and bringing “optimal results to any aviation company that seeks [his] contracted services.” The Petitioner further explained that the lack of availability of qualified aircraft maintenance professionals in the United States and how this shortage became even more critical following the COVID-19 pandemic. In addition, the Petitioner stated that the technical and mechanical support he would provide “lends to a robust aviation industry facilitates international trade and tourism...important to the sustainability and creation of American transportation and hospitality jobs, fostering U.S. economic stimulus.”

The Petitioner asserted his proposed endeavor would impact the United States through his “improvement of validation testing procedures” and the “development of new and improved designs for aircraft design procedures.” He stated he would train and guide a new generation of aircraft mechanics, contribute to U.S. gross domestic product, and generate tax revenue. The Petitioner pointed to a U.S. Federal Aviation Administration (FAA) report discussing the “vital importance of Aviation Maintenance Technician[s] as a support element for the entire air carrier industry” as a “first line of defense.” The Petitioner further submitted an article addressing “National Aviation Maintenance Technician Day,” announced by NASA, reflecting the “respect and seriousness to which [aviation maintenance technicians] approach their work because it can literally mean the difference between life and death.” The Petitioner also emphasized statements from the president indicating that the United States would “continue to prioritize offering the next generation of technicians, mechanics, and engineers every opportunity to succeed and preserve our country’s status as the world’s leader in aviation technology and industry.” The Petitioner asserted that the statements from the president, NASA, and the FAA clearly highlight the “substantial merit and national importance of the [the Petitioner’s] proposed endeavor.”

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).

The Director later issued a request for evidence (RFE) stating the Petitioner submitted sufficient evidence to establish that his endeavor has substantial merit. However, the Director indicated the provided evidence did not demonstrate that the Petitioner's proposed endeavor, his work as an aircraft mechanical maintenance specialist, would have national importance. The Director determined the provided evidence did not demonstrate that the impact of the Petitioner's proposed endeavor would have substantial positive economic effects. As such, the Director requested the Petitioner submit a detailed description of the proposed endeavor, why it is of national importance, and documentary evidence supporting its national importance. The Director further indicated the Petitioner should provide evidence to establish the endeavor's potential prospective impact, such as documentation to substantiate how it would have national or global implications in the field, have significant potential to employ U.S. workers or have other substantial economic effects, broadly enhance societal welfare or cultural or artistic enrichment, or impact a matter that a government entity has described as having national importance.

In response, the Petitioner submitted an additional personal statement discussing why his proposed endeavor would be of national importance. He indicated that his work as an aircraft maintenance specialist would "improve [the] U.S. Aviation Industry effectively and to provide U.S. citizens and residents with safe and practical solutions to travel nationally or internationally" through his "troubleshooting, diagnosing, and replacements of the aircraft." The Petitioner stated that he would provide "mission-critical services to various industries, including those operating in transportation, tourism, healthcare, and more" and that he would "contribute to the recruitment and selection processes of technicians in the U.S. with a new approach that looks beyond the candidate's technical competencies and focuses on differentiating personal skills." The Petitioner emphasized that aircraft maintenance specialists "help keep the economy moving by facilitating the transportation of goods and people and play a crucial role in national defense by ensuring that military aircraft are in good working order," noting that they are "not only important to the U.S. economy but also to national security." The Petitioner further pointed to a FAA's "NextGen program" aiming to modernize US air traffic control and travel and indicated that it will require newly skilled aircraft maintenance specialists, as well as the Inflation Reduction Act, noting that these professionals play a key role in ensuring the reduction of greenhouse gas emissions in air travel.

In addition, the Petitioner asserted that his proposed endeavor has the significant potential to employ U.S. workers and have other substantial economic benefits. He again highlighted the FAA's NextGen program and claimed it would create new jobs for aircraft maintenance specialists. The Petitioner stated that there is a shortage of aircraft maintenance specialists in the United States and asserted that the U.S. government and industry organizations are taking steps to encourage more individuals to enter the field, notably through the FAA forecast, the aviation maintenance training program, and the workforce development for careers in the aerospace and aviation industry grant. The Petitioner further emphasized an expert opinion letter he submitted from Professor [redacted] at [redacted] [redacted] who opined that the Petitioner is "a respected leader among his contemporaries with the field of aviation mechanics," has "in-depth experience in leadership positions," and "his work is in demand and has national importance within the field of aviation." Professor [redacted] also discussed the size of the aviation industry noting that it employs 288,000 maintenance and manufacturing professionals and produces more than \$52 billion in economic activity. He asserted that the United States would greatly benefit from the Petitioner's "extensive experience" and "expertise" in aviation maintenance.

In denying the petition, the Director concluded the Petitioner demonstrated that his proposed endeavor had substantial merit. However, the Director determined the Petitioner did not establish that his proposed endeavor was of national importance. More specifically, the Director indicated that the evidence did not show that the Petitioner's proposed endeavor would result in substantial positive economic effects or extend beyond the local area, company, or its clientele and impact the field more broadly.

On appeal, the Petitioner contends the Director erred in concluding that his proposed endeavor was not of national importance, asserting that his work as an aircraft mechanical specialist would be essential to the safety of air travel. The Petitioner points to his personal statement and states that this reflects the demand for qualified professionals in his field and the shortage of qualified workers. The Petitioner again emphasizes U.S. government initiatives he claims relate to the proposed endeavor, including the FAA Reauthorization Act, FAA NextGen program, and the Inflation Reduction Act promoting the importance of aircraft mechanics on air travel safety, modernization, and the use of alternative fuels, respectively. The Petitioner contends his proposed endeavor would have substantial economic effects and he highlights U.S. government initiatives to encourage individuals to enter the aircraft maintenance field due to a national shortage, and his ability to address this shortage. In addition, the Petitioner asserts the Director ignored the expert opinion letter it submitted in response to the RFE from Professor [redacted] and states it demonstrates the national importance of his proposed endeavor.

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 "the specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further 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. 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.

As a preliminary matter, in discussing the national importance of the Petitioner's proposed endeavor, he and the expert opinion from Professor [redacted] regularly emphasize his "extensive experience" and "expertise" in providing aircraft maintenance and repair. However, the Petitioner's experience and knowledge in and of itself is not relevant to demonstrating national importance of the Petitioner's proposed endeavor but is only probative to whether he is well positioned to advance the endeavor under the second prong of *Dhanasar*. *See Matter of Dhanasar*, 26 I&N Dec. 884, 892-93. Therefore, we do not find the emphasis on his skills and experience on appeal convincing in establishing the national importance of his proposed endeavor.

Further, the Petitioner asserts broad impacts his proposed endeavor would have on the aviation industry and the United States that are left unsupported. As noted, the Petitioner states that he would accept a position in the United States to work a full-time position as an aircraft maintenance specialist in Florida. Even if we accept that the Petitioner's contention that there is a shortage of aircraft

maintenance and repair professionals in the United States, it is not clear how him filling one of these positions in the United States would have a national impact on this shortage. The Petitioner also asserted that aviation maintenance professionals have a national impact on international trade and tourism, hospitality, the economy, and the safety of the American public in air travel. Again, although aircraft maintenance professionals as a group may indeed have an impact on things such as the national economy or public safety, the focus here is on the Petitioner's specific proposed endeavor and its potential prospective impact, namely his proposed work as an aircraft maintenance specialist with T-A-A-. Given this, the Petitioner has not sufficiently supported that his work would have a national impact on U.S. trade and tourism, hospitality, economy, and the safety of the American public in air travel, as claimed.

Likewise, the Petitioner contends that his proposed endeavor would impact national security, but he has provided little evidence to support that his specific work in the United States would be in this field and have a national impact on U.S. national security. The Petitioner also discusses how his proposed endeavor would lead to new and improved designs and procedures, as well as training a new generation of aircraft maintenance professionals and formulating a new process for selecting these professionals. Yet again, the Petitioner provides few specifics or supporting documentation to substantiate that his proposed work as an aircraft maintenance specialist with one aircraft maintenance company would have a national impact on the way aircraft maintenance professionals are trained or selected. The Petitioner also does not describe the new and improved designs and procedures that would result from his work or how they would have an asserted national impact. See *Matter of Chawathe*, 25 I&N Dec. at 376.

As discussed, the Petitioner further points to several U.S. government initiatives asserting that the Petitioner's proposed endeavor would have a potential prospective impact on them, including the FAA Reauthorization Act, the FAA NextGen program, and the Inflation Reduction Act, each respectively promoting the importance of aircraft mechanics on air travel safety, modernization, and the use of alternative fuels. However, again, the Petitioner does not specify and support how his work as an aircraft maintenance specialist would have a national impact on the safety of air travel, the modernization and innovation of the industry, or on the use of alternative fuels in air travel. According to the Petitioner's assertions, it appears that any individual working in any industry with some impact on the national interest would qualify, however as noted, our focus is not on the industry, but the potential prospective impact national impact of the specific proposed endeavor. Here, the Petitioner has not sufficiently substantiated that his specifically proposed endeavor would have a national impact on air travel safety, modernization, and the use of alternative fuels, or other similar U.S. government initiatives to promote and advance aircraft maintenance. *Id.*

The Petitioner further contends that his proposed endeavor would have a substantial positive economic impact. The Petitioner's focus again is on the whole industry, including the contribution of all aircraft maintenance professionals on the U.S. economy, the FAA's NexGen program to create jobs for aircraft maintenance personnel, the need to for these professionals in the United States, and industry initiatives to deal with his demand. However, the Petitioner's assertions do not clarify how his employment in the United States as an aircraft maintenance specialist for one company would have a national impact on the industry or impact the economy on a national scale. It is not clear based on the Petitioner's assertions or the submitted evidence how his proposed endeavor would impact an industry he states accounts for 288,000 maintenance and manufacturing professionals and more than \$52 billion in

economic activity. As such, the Petitioner has provided little evidence to establish that his proposed endeavor would have a substantial positive economic impact.

On appeal, the Petitioner contends that the Director ignored the provided expert opinion from Professor [redacted] discussing the asserted national importance of his proposed endeavor. First, we disagree that the Director did not consider the expert opinion, as it was specifically discussed in the denial decision. Further, the expert opinion merely reiterates the Petitioner's assertions, noting the shortages in aircraft maintenance professionals in the United States and his skills, experience, and expertise. Again, as previously indicated, the Petitioner's skills and experience are not relevant to demonstrating the prospective national impact of his work. In addition, the expert opinion only discusses the aircraft maintenance and aviation industries generally but provides little basis to establish that the Petitioner's employment as an aircraft maintenance specialist for one aircraft maintenance company would have a national impact on shortages of workers in this industry. We may, in our discretion, use as advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence. *Matter of Caron Int'l*, 19 I&N Dec. 791 (Comm'r 1988).

The Petitioner has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor such that they rise to the level of national importance. In *Dhanasar* we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Matter of Dhanasar*, 26 I&N Dec. at 893. As noted by the Director, the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his position as an aircraft maintenance specialist. As such, the Petitioner has not demonstrated that his proposed endeavor would have a broad influence commensurate with national importance.

Because the documentation in the record does not establish the national importance of the Petitioner's proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, he has not demonstrated eligibility for a national interest waiver.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.