



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

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

In Re: 34829555

Date: NOV. 22, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a manager in curriculum design for flight training, 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). The Director of the Texas Service Center denied the Petitioner’s Form I-140, Immigrant Petition for Alien Workers, concluding that the Petitioner did not establish his underlying eligibility for EB-2 classification as an advanced degree professional or an individual of exceptional ability, and furthermore that he did not establish he merited a national interest waiver. 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. 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.

¹ *See Brasil v. Sec’y of DHS*, 28 F.4th 1189, 1194 (11th Cir. 2022) (concluding that USCIS’ decision to grant or deny a national interest waiver is discretionary in nature).

II. ANALYSIS

The Director concluded the Petitioner did not establish his underlying eligibility for EB-2 classification as an advanced degree professional or an individual of exceptional ability, and furthermore that he did not establish any of the three prongs under the *Dhanasar* analytical framework, specifically that his proposed endeavor was nationally important; that he was well positioned to advance the proposed endeavor; and that on balance, waiving the job offer requirement would benefit the United States. *See Dhanasar*, 26 I&N Dec. at 889. On appeal, the Petitioner claims the Director erred in its conclusion that he was not an advanced degree professional and furthermore asserts that he meets all three of the *Dhanasar* prongs and merits a national interest waiver. For the following reasons, we find that the Petitioner has not established eligibility for a national interest waiver under the first prong of the *Dhanasar* analytical framework and will therefore dismiss his appeal.

A. Substantial Merit and National Importance

The first prong of the *Dhanasar* analytical framework, regarding substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. 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, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we consider the proposed endeavor's "potential prospective impact," and "look for broader implications." *Id.* In *Dhanasar*, we noted that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* Further, "[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 support of his Form I-140, the Petitioner provided, in part, a statement wherein he explained his proposed endeavor is to become a flight training consultant in the United States whereby he could help airlines, flight training organizations, and freight carriers to develop their own competency-based training and assessment (CBTA) programs for flight and have them accredited. He claimed that the United States is facing a pilot shortage crisis, and that development of flight training programs would provide a competent workforce and improve aviation safety and therefore has both substantial merit and national importance. The Petitioner also submitted evidence showing his experience in the field of aviation curriculum design and assessment and articles describing the benefits of CBTA programs within the U.S. aviation field and the importance of the aviation field in general. The Director determined the Petitioner's proposed endeavor had substantial merit, but that he had not provided sufficient evidence to establish his proposed endeavor has national or global implications within the aviation field, has significant potential to employ U.S. workers, or has other substantial positive economic effects, particularly in an economically depressed area, commensurate with national importance.

On appeal, the Petitioner claims the Director erred in concluding his proposed endeavor was not nationally important in part because the Director did not provide a comprehensive analysis of the evidence in the record. Our review, however, reflects that the Director considered the Petitioner's

arguments and the entire record and provided sufficient analysis in concluding that he did not establish the national importance of the proposed endeavor.

The Petitioner also claims that the Director mischaracterized his role as a consultant, pointing out that the Petitioner would not work for any one company, but for the industry as a whole, and that the Director failed to give sufficient weight to the impact the Petitioner's proposed endeavor would have in saving lives, employing U.S. workers, and improving the profitability of the aviation industry.

We acknowledge the Petitioner's claim on appeal and the evidence described above which primarily describes the Petitioner's experience in the field of aviation curriculum design and assessment or the overall impact the aviation industry has on the economy of the United States. Our focus, however, is on the prospective impact of the specific endeavor that the Petitioner proposes to undertake, rather than his credentials and experience or the importance of the industry or profession in which he will work. *Id.* at 889.

Here, while the Petitioner claims that his endeavor is nationally important because he would not just be working for a specific company but rather for the aviation industry, the Petitioner has not offered sufficient information and evidence to demonstrate that the consulting services he intends to provide as part of his endeavor, even if to multiple different companies in the industry, would sufficiently extend beyond his own current or prospective clients to have broader implications in the field or impact the U.S. economy at a level commensurate with national importance.

Additionally, while we recognize the need for and importance of training programs for pilots to work in the aviation industry, the Petitioner does not sufficiently explain, and the record does not demonstrate, how the specific services he proposes to provide as a consultant offer original innovations to advance, or otherwise have wider implications in, the aviation industry or flight training and safety fields overall. Further, the Petitioner's general assertions in his statement regarding the contributions his proposed endeavor will make to the national economy are not supported by corroborating evidence. His unsupported and general claims regarding job creation are insufficient to establish that the number of jobs created by his proposed endeavor would result in *substantial* positive economic effects or have significant potential to employ U.S. workers, particularly in an economically depressed area. *Id.* at 890. Accordingly, the Petitioner's evidence is insufficient to demonstrate his proposed endeavor is nationally important.

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, requiring that he demonstrate his proposed endeavor is nationally important. He therefore has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

As noted above, the Director concluded that the Petitioner did not establish his underlying eligibility for EB-2 classification as an advanced degree professional. While the Petitioner contests this conclusion on appeal, because he is ineligible for a national interest waiver, we will reserve the issue of whether he qualifies for EB-2 classification as an advanced degree professional. *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 alternative issues on appeal where an applicant is otherwise ineligible). Similarly, while the Petitioner contests the Director's conclusion that he did not establish that he was well positioned to advance his proposed endeavor, or that on balance it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification, as are required under the *Dhanasar* analytical framework, since our determination that the Petitioner did not establish that his proposed endeavor is nationally important is dispositive of his appeal, we also decline to reach and hereby reserve the appellate arguments on these issues. *See id.*

ORDER: The appeal is dismissed.