



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

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

In Re: 34885621

Date: JAN. 29, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a pilot and instructor, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. *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, concluding the record did not establish that the Petitioner qualified 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.

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.” *Id.* 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 discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

¹ *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 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.

See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

II. ANALYSIS

The Director concluded that the Petitioner qualified for the underlying EB-2 classification. The remaining issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

In response to a request for evidence (RFE), the Petitioner provided the following summary of his proposed endeavor:

[The Petitioner's] proposed endeavor is to continue in his capacity as an airline pilot and flight instructor as well as in the realm of sustainable aeronautics, focusing on innovating advanced propulsion systems and alternative fuels for aviation. With a rich academic background involving a Master of Science in Aeronautics, as well as his current progress towards a diploma in Aircraft Maintenance Engineering, [the Petitioner's] objective is to spearhead initiatives in the aviation sector focusing on sustainable aeronautics, drafting and implementing engineering plans that can drastically diminish the aviation industry's carbon footprint.

Regarding his plan to continue his work as a pilot and instructor, the Petitioner stated that he would provide training and mentorship “to educate the next generation of pilots on sustainable flight practices,” as well as “develop an instructional pathway program designed for U.S. aviation pilots and flight instructor students . . . to enhance the pilots' aeronautical decision making, risk management, and single pilot resource management skills, without compromising basic stick and rudder skills.” Concerning the sustainability element of his proposed endeavor, the Petitioner explained in general terms that he would “engage with top-tier research institutions and aviation companies that will focus on engineering innovations that drastically reduce aviation emissions,” stating that he would “continue to conduct extensive studies” and use his “innovative prowess evidenced by his registered patents” to “partner with aircraft design and engineering teams to explore modifications and overhauls that make aircrafts more fuel-efficient and environmentally friendly.”

Although the Director determined that the Petitioner's proposed endeavor has substantial merit, the Director concluded the record did not establish that the endeavor is of national importance. On appeal, the Petitioner reiterates his explanation of the national importance of his endeavor, asserting that the Director's evaluation of the evidence focused only on a portion of the proposed endeavor: addressing purported shortages of qualified pilots in the United States. Upon review, for the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his endeavor in order to establish his eligibility under the first prong of the *Dhanasar* analytical framework.

The first prong, 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

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.” *Id.* 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. Further, 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. *Id.* at 889.

The Petitioner provided reports and articles discussing the aviation industry, as well as documentation outlining Congressional and White House initiatives concerning the importance of aviation within the economy and a need for more accessible flight training opportunities. Although the Petitioner asserts in his RFE response that his endeavor will further certain objectives described in this documentation, the material itself does not provide sufficient insight into any specific plans that the Petitioner has concerning his intent to work in the field of aviation in the United States. While this documentation relates to the area in which the Petitioner intends to work, it does not speak to how specific work conducted by the Petitioner in the field of aviation would have a potential prospective impact of national importance. And although the Petitioner also offered documentation concerning his education and experience, including patents in China for a magnetic hanging spring for vehicles and a teaching apparatus for the periodic table of elements, this information does not provide insight into any specific proposed endeavor envisioned by the Petitioner beyond that of continuing his work as a pilot and instructor; the Petitioner has not explained, for example, how his current patents might relate to his proposed endeavor, nor has he offered an explanation of what innovations he would apply to specific aspects within the aviation industry or how he would deploy them to have an impact on a national level.

Similarly, letters of support from colleagues, previous classmates, and a former student discuss the Petitioner's qualifications as a pilot and instructor, but they do not provide specific information concerning the Petitioner's proposed endeavor. Although these and other letters of support laude the Petitioner's knowledge and skills, they do not illuminate any definitive endeavor he intends to pursue in the United States. We note that evidence of work experience generally relates not to the national importance of an endeavor, as discussed in the first prong of *Matter of Dhanasar*, but to the second,² which evaluates whether an individual is well positioned to advance an endeavor. In addition, while an expert opinion letter discusses the importance of the aviation industry and pilot shortages, it does

² Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* framework, determinations concerning the second and third prongs are unnecessary to the ultimate decision; therefore, they will be reserved in this decision.

not explain how the Petitioner's employment as an individual pilot or instructor of pilots would address any national shortage of pilots. As such, these letters do not sufficiently demonstrate the national importance of the Petitioner's proposed endeavor.

The Petitioner also provided the following description of his endeavor in his RFE response:

The global aviation sector is at a crossroads. With increasing demands for air travel juxtaposed with environmental concerns, there's a pressing need for innovation. Recent studies suggest that by 2040, over 40% of global commercial aircraft fleets might become electric. Alternative fuels, too, are projected to account for a substantial portion of the aviation industry's fuel needs by 2050. [The Petitioner] understands the nuances and challenges of this transformative phase. His work aims not just at improved efficiency but also at positioning the U.S. aeronautics sector as a world leader in sustainability. The potential benefits of such innovations are multifold: reduced carbon emissions, decreased operational costs, and a significant positive impact on the environment.

While we recognize that the Petitioner's general intention to improve efficiency within the aviation industry and to elevate the United States within the field is an endeavor of substantial merit, he has not detailed how his work as an individual in the field would specifically achieve his broadly described ambitions. Again, it is not the overall importance of the industry or field in which the Petitioner intends to work, but the specific endeavor on which the Petitioner intends to embark that we consider in evaluating whether it is of national importance. Although an endeavor that is shown to have significant potential to broadly enhance societal welfare may be considered to have national importance,³ here, the Petitioner has described general goals without defining his specific endeavor beyond that of an intention to collaborate with entities to possibly develop approaches to complex issues within the aviation industry. And while the Petitioner has generally speculated that the impact of his work would create jobs in the United States, he did not provide independent evidence or otherwise explain how he would create jobs at a level that would have a significant impact on a given region or have a prospective national impact on a specific field. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The record does not include a plan or other indication of how the Petitioner's individual work would impact the economy at the level of national importance contemplated under the first prong of the *Dhanasar* framework.

The Petitioner has not specifically described how he would undertake an endeavor of a scale that would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. While the Petitioner has described in broad terms the services he intends to provide, he has not explained how his work would have a national-level impact to realize U.S. goals to, as he described in his RFE response, achieve sustainable aviation and develop the U.S. workforce.

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the

³ *See* 6 USCIS Policy Manual F.5(D)(1).

Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *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).

III. CONCLUSION

The Petitioner has not demonstrated that the proposed endeavor has national importance. As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, he has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The petition will remain denied.

ORDER: The appeal is dismissed.