



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

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

In Re: 26762129

Date: MAY 19, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an airfield operations specialist, seeks employment-based second preference (EB-2) 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. *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 petition, concluding that the Petitioner had not established that 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.

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. Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 U.S. Citizenship and Immigration Services (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;

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 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 Director's decision did not render a determination as to whether the Petitioner qualifies as a member of the professions holding an advanced degree or as an individual of exceptional ability. Instead, the decision only addressed the Petitioner's eligibility for a national interest waiver. Therefore, the issue for consideration 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.²

With respect to his proposed endeavor, the Petitioner initially indicated that he intends to work in the United States "as a specialist in airport operations." He asserted that he planned "to implement projects, mapping all the logistics of the grounded and in-flight aircraft, aiming to increase safety and minimize time on the ground, being successful concerning having punctuality of flights, and implementing strategies to optimize a company's network of flight routes."

In response to the Director's request for evidence (RFE), the Petitioner explained that his undertaking involves "performing activities such as project implementation, mapping of aircraft logistics in the yard and in flight, among others, aiming to contribute to the civilian aviation industry with regard to increasing safety and minimizing the time of aircraft on the ground at airports, providing punctuality of flights and strategies to optimize the air network." He further stated that his proposed work as an airport operation specialist includes:

- Implementing safety procedures to ensure a safe operating environment for personnel and aircraft operation;
- Inspecting airport conditions to ensure compliance with federal regulatory requirements;
- Monitoring and maintaining flight records and applying knowledge of meteorological information;
- Assisting in the response to aviation emergencies;
- Coordinating communications between air traffic control and maintenance personnel;
- Performing and supervising airport management activities;
- Managing communications between air traffic controllers and maintenance personnel;
- Planning flight operations;
- Organizing teams during emergencies;
- Communicating with other agencies to coordinate management efforts and support activities;
- Providing crews with the information and services needed for safe airport management and flight planning;
- Maintaining accurate flight and event records; and
- Producing, acquiring, and providing up-to-date information on the safe operation of aircraft.

² Because the Petitioner has not demonstrated his eligibility for a national interest waiver on appeal, we need not remand the decision for the Director to determine whether he qualifies for the underlying EB-2 visa classification.

The record includes information about airfield operation specialists, aviation safety and accident prevention, the impact of the September 11 terrorist attacks on U.S. airline demand, and the effect of labor shortages on flight schedules. In addition, the Petitioner provided articles discussing safety management systems for airports, safety risk management in airport projects, the value of air transport in the United States, and government revenue from airports. The record therefore supports the Director's determination that the Petitioner's proposed endeavor has substantial merit.

Furthermore, the Petitioner provided recommendation letters from former coworkers at G-L-A- S/A and V- S/A who discuss his airline operations capabilities and experience. The Petitioner's skills, knowledge, and prior work in his field, however, 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 that he proposes to undertake has national importance under *Dhanasar*'s first prong.

The Petitioner also submitted a "Written Advisory Opinion" from Dr. C-A-, an assistant professor of aeronautical science at [REDACTED] University, in support of his national interest waiver. Dr. C-A- asserted that the Petitioner's proposed work is of national importance because his generic occupation of airfield operations specialist and the industry in which he works stand to increase safety, minimize time on the ground, improve punctuality, prevent flight cancellations and customer dissatisfaction, maintain high performance, optimize flight paths and logistics, leverage tourism, and strengthen the U.S. economy. The issue here, however, is not the national importance of the field, 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. The letter from Dr. C-A- does not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work in airfield operations offers broader implications in his field or substantial positive economic effects for our nation that rise to the level of national importance.

In the decision denying the petition, the Director determined that the Petitioner had not established the national importance of his proposed endeavor. The Director stated that the Petitioner had not demonstrated that his undertaking "offers broader implications in the aviation field that rise to the level of national importance." The Director also indicated that the Petitioner had not shown his proposed work has significant potential to employ U.S. workers or other substantial positive economic effects.

On appeal, the Petitioner contends that his proposed endeavor has national importance because "he intends to use his experience and skills in airport operations [or airfield operations] to guarantee the safety of Americans." He asserts that his undertaking "will contribute to the Federal Aviation Administration's goals of improving aviation safety in the U.S." The Petitioner further argues that his proposed work "will contribute to the U.S. economy by increasing airline profits in the U.S. aviation industry, helping the country's economic growth post-pandemic." He also maintains that his proposed endeavor reduces "airlines' economic losses that can result from aircraft and crew downtime, lawsuits and waste of fuel," and therefore increases "the companies' revenue." In addition, the Petitioner states that "air transport benefits the American population because it connects the U.S. with countries around the world, enables the transportation of goods and people, and brings investments to the country."

In determining national importance, the relevant question is not the importance of the field, 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 *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. While the Petitioner’s statements reflect his intention to provide valuable airport operations services for his future U.S. airline employer, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises 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. *Id.* at 893. Here, we conclude the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his employer to impact the airfield operations field, the aviation industry, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner’s airfield operations projects would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. Accordingly, the Petitioner’s proposed work does not meet the first prong of the *Dhanasar* framework.

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. Since this issue is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the appellate arguments regarding his eligibility under the second and third prongs outlined in *Dhanasar*. 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).

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. 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.