



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

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

In Re: 28091997

Date: SEP. 05, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a petroleum engineer in the oil and gas field, 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 petition, concluding the record did not establish the Petitioner's eligibility for a national interest waiver under the Dhanasar framework. 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. 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;
- The individual is well-positioned to advance their proposed endeavor; and

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).

- On balance, waiving the job offer requirement would benefit the United States.

II. ANALYSIS

A. Advanced Degree Professional

The evidence establishes the Petitioner holds the foreign equivalent of a U.S. bachelor's degree followed by at least five years of post-baccalaureate experience. Therefore, the record supports a finding that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional. The remaining issue to be determined is whether the Petitioner has established eligibility for a national interest waiver under the Dhanasar framework. While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

B. The Proposed Endeavor

In his response to the Director's request for evidence (RFE), the Petitioner stated, "I intend to continue working in the U.S. as a Petroleum Engineer[,] as an employee of a U.S.-based company[,] such as my current employer, [REDACTED] or as an independent consultant delivering exceptional drilling, [oil] well completion and packers products, services, and projects to multinational energy companies in the Oil & Gas industry" Although the Petitioner provided significant background detail on the work he performs for his current employer, he has not clarified how he will be employed as a petroleum engineer within the context of his proposed endeavor. Specifically, the Petitioner stated that he may work as a petroleum engineer for his current employer, another U.S.-based employer, or as an independent consultant. The record does not reflect whether the proposed endeavor involves pursuing one or each one of these employment avenues, some combination of them, or whether he will hold these positions simultaneously or concurrently.

The purpose of a national interest waiver is not to enable a petitioner to engage in a domestic job search. In *Dhanasar*, we held that a petitioner must identify "the specific endeavor that the foreign national proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889. To establish national importance, the Petitioner must demonstrate the proposed endeavor's impact, rather than relying upon the importance of petroleum engineers or the oil and gas industry as a whole. Therefore, defining the proposed endeavor is material, as the specific proposed endeavor informs the overall national interest waiver inquiry. The level of impact an endeavor will have may differ depending on the employment context. To illustrate by example, if the Petitioner pursues self-employment as a petroleum engineer consultant, his business costs, range of clients, and the scale upon which he consults would differ from that which he would encounter when serving as a petroleum engineer with his current employer, a company that has an established reputation and pre-existing clients. Without sufficient information concerning the specific proposed endeavor, as opposed to the petroleum engineer occupation in general, we cannot ascertain its impact.

In determining whether an individual qualifies for a national interest waiver, we must rely on the specific proposed endeavor to determine whether (1) it has both substantial merit and national importance and (2) the foreign national is well positioned to advance it under the *Dhanasar* analysis. Because the Petitioner has not provided sufficient information regarding his proposed endeavor, we cannot conclude that he meets either the first or second prong, or that he has established eligibility for a national interest waiver.

While the appeal may be dismissed on this issue alone, the evidence focuses heavily on the Petitioner's work with his current employer. As such, we provide additional analysis of the Petitioner's eligibility under the Dhanasar framework based upon a proposed endeavor of continuing work in the same capacity.

C. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor 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. *Id.* Additionally, when 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 *id.*

The Petitioner provided background materials concerning the size, economic value, and importance of the oil and gas industry, as well as the shortage of qualified labor, and the importance of U.S. energy independence. We conclude that these materials support the Director's finding that the proposed endeavor has substantial merit. However, the articles and reports largely address the industry or occupation as a whole, rather than the specific proposed endeavor. As these materials do not contain analysis of the Petitioner's specific proposed endeavor, it cannot be concluded that they support a finding that the endeavor has national importance.

The Petitioner provided various background materials on his work experience with his employer, including his role as a product champion for completion packers and packer processes within the industry. Through this, the Petitioner demonstrated the importance of packer solutions and the precision required to implement them. We understand that the role of a product champion for completion packers contributes to efficient oil extraction while minimizing environmental waste and damage. While we have considered this information, the Petitioner has not established how his specific proposed endeavor rises to the level of national importance. Instead, he has demonstrated the collective and general importance of a product champion for completion packers. In other words, we conclude that the general importance of packer solutions and of the product champion role is not necessarily sufficient to establish the national importance of the Petitioner's specific proposed endeavor.

The Petitioner contends that his proposed endeavor is important because if someone incorrectly performs the role, then the oil well, environment, and industry can be harmed. Stated simply, the Petitioner asserts that by performing his role competently and without additional negative impact, his proposed endeavor to work in this role rises to the level of national importance. However, ably performing one's job to prevent environmental damage highlights the consequences of not performing the job correctly, rather than the positive impact of such an endeavor. Here, the Petitioner attempts to demonstrate a positive impact rising to the level of national importance by presenting the important downsides of not performing the job correctly. Preventing a negative effect is not necessarily sufficient to establish an affirmative positive impact that rises to the level of national importance.

If the Petitioner were to demonstrate that working for his current employer as a petroleum engineer affirmatively produces a positive impact, he would need to provide additional details to establish that

such an impact rises to the level of national importance. To do this, the Petitioner could offer information such as how many product champions for completion packers [] employs; how many wells and types of packers other oil companies have; how many packers are used in each well; for how many wells the Petitioner has provided packers; and how product champions for completion packers compare with other roles in the oil drilling process. Data such as this would offer context for which to determine whether the specific proposed endeavor's impact reaches beyond other petroleum engineers working in similar roles. It is insufficient to demonstrate that an occupational category is of national importance. Rather, the Petitioner must demonstrate that his specific proposed endeavor is of national importance.

The Petitioner contends that his role as a petroleum engineer positively impacts the United States by contributing to the nation's energy independence; however, he has not substantiated this assertion. Helpful information to establish this would include whether the wells for which the Petitioner has provided packer solutions are located within the United States, as opposed to internationally. Similarly, the Petitioner may support his assertion by providing documentation that the clients purchasing the Petitioner's packers are U.S.-based businesses rather than foreign businesses. As the record does not offer sufficient details about such matters, we cannot conclude that the benefit of the Petitioner's work adds to our energy independence.

The Petitioner emphasized the importance of the energy industry for the United States, the world's economy, and society, requesting that we not ignore how the oil and gas industry works in assisting the entire country's economic growth through its billions of dollars of yearly revenue. While we acknowledge that economic activity of any kind has the potential to impact the economy, the Petitioner has not demonstrated how the economic activity his specific proposed endeavor generates would rise to the level of national importance. The Petitioner contends that the size and scale of [] and its sales to clients worldwide impacts the overall oil and gas industry, including in the United States; however, if the potential prospective impact of the proposed endeavor is to enable the United States to be energy independent, then we would expect the Petitioner's proposed endeavor to primarily involve domestic transactions between U.S. companies. We noted in *Dhanasar* 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.* Even if we were to agree that [] is a multinational company that influences the global oil and gas industry, this would not be sufficient to support a finding that the Petitioner's specific proposed endeavor of working at [] has global implications within the oil and gas field or that it produces an impact rising to the level of national importance for the United States.

The Petitioner emphasized his designs are the subject of patents. Documents in the record discuss the Petitioner's involvement in designing packers that save his employer money, boost their profits, and generate new patents; however, even if this were corroborated, the evidence does not clarify how the Petitioner's design extended beyond his employer to affect the field as a whole. We understand that [] supplies other companies in the oil and gas industry with packers featuring the patented design and partners in mutually beneficial ways with other companies using or manufacturing the packers; however, the business activity these packers generate appears to primarily benefit [] and its direct partners and clients. The Petitioner has not sufficiently demonstrated how these packers influence the oil and gas field more broadly. Apart from purchases or partnering with

the Petitioner's employer, the patented packer design does not appear to be available to the industry as a whole.

To establish the national importance of his proposed endeavor, the Petitioner emphasized his successful past performance in various positions and the results he achieved for his employers. Like the Director, we conclude that the evidence provided does not substantiate how the Petitioner's past performance extended beyond his employers and clients to impact the field more broadly. We reviewed the recommendation letters from other professionals in the industry; however, they do not support a finding of the Petitioner's eligibility under the first Dhanasar prong. The authors of the letters discussed the results he achieved for his employer and clients and how the Petitioner performed well on various projects in the past. The authors did not sufficiently explain how the Petitioner's performance or the results he achieved extended beyond his employer and the specific parties involved to impact the field more broadly.

To illustrate with specific examples, the letter from [redacted] mentions a tool called "[redacted]" which he contends the Petitioner developed to calculate probable project results to inform the probability of a project achieving a financial goal. However, [redacted] letter does not demonstrate whether others outside of [redacted] use the tool or whether it affects the oil and gas field as a whole. We reviewed [redacted] first and second recommendation letters. He writes that the layout and interface the Petitioner devised while working for [redacted] inspired him to apply similar methods in his work with Amazon Web Services' (AWS) project designs. However, [redacted] does not provide sufficient details to substantiate the Petitioner's influence, such as the results of the inspired project designs, how the designs impacted AWS or the industry as a whole, whether the Petitioner's methods were actually implemented, and whether others in AWS, or the field in general, have adopted these methods and attributed them to the Petitioner. Likewise, [redacted] explains in his letter that he gained skills, knowledge, and expertise from working alongside the Petitioner at [redacted] and uses what he gained with the Petitioner to carry out a geothermal energy project with another company. Although [redacted] describe the Petitioner's work and influence as contributions to the industry, the letters only describe the Petitioner's impact to them personally. In other words, the Petitioner appears to have influenced them much like a teacher influences a student. 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. Accordingly, we cannot conclude these letters substantiate a finding that the Petitioner's work has impacted the field more broadly.

The Petitioner provided a letter from [redacted] who wrote that, after a joint product line development project, the Petitioner enabled [redacted] to "maintain a group of" employees in his oil and gas company. [redacted] states the Petitioner oversaw the design and technical requirements for the "BluePack" technology, while [redacted] handled the engineering activities to develop the projects. As a result of the success of the product sales, [redacted] had sufficient revenue to "maintain and hire employees." If not for the product demand the Petitioner created, [redacted] "could not have maintained the number of 30 employees" or started a new completion manufacturing subsidiary. The letter does not specify how many jobs the product line development project created versus maintained, nor does [redacted] offer sufficient details about what the created jobs were, how long the jobs existed, whether they still exist, and how much they paid. While we acknowledge [redacted] letter, generalized conclusory statements that do not identify a specific impact in the field

have little probative value. *See 1756, Inc. v. U.S. Att’y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). Furthermore, the Petitioner has not explained how the maintenance or creation of 30 job is of such economic benefit that it rises to the level of national importance.

In response to the Director’s RFE, the Petitioner provided an advisory opinion letter from [redacted] [redacted] University. Regarding the national importance portion of *Dhanasar*’s first prong, [redacted] provided a general overview of the importance and value of the oil and gas industry, as well as the challenges to domesticating our petroleum production. Similar to [redacted] letter [redacted] offered generalized statements about job creation but did not provide sufficient details regarding the proposed endeavor’s specific job creation impact. 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 U.S. regional or national economy resulting from the Petitioner’s proposed endeavor would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *See Dhanasar*, 26 I&N Dec. at 890. [redacted] also focused on the Petitioner’s personal and professional qualifications and the expertise he acquired; however, these factors pertain to the second prong of the *Dhanasar* framework. The second prong “shifts the focus from the proposed endeavor to the foreign national.” *Id.* The issue here is whether the specific endeavor the Petitioner proposes to undertake has national importance under *Dhanasar*’s first prong. As [redacted] opinion letter does not meaningfully discuss details about how the Petitioner’s proposed endeavor stands to have broader implications or substantial positive economic impact, we conclude that it is of little probative value in this matter.

On appeal, the Petitioner submits a brief and a letter from [redacted] the Petitioner’s coworker. The Petitioner asserts the Director’s decision violates the Administrative Procedures Act because it contains boilerplate, contradictory, and arbitrary statements and ignores the Petitioner’s evidence. Aside from [redacted] letter, the Petitioner primarily relies upon the evidence and assertions he previously provided, which we addressed above.²

[redacted] writes that the Petitioner developed software to simulate valve operations in downhole well environments, which reduces the time required for valve selections, and that [redacted] adopted this technology across its engineering departments worldwide. However, [redacted] offers little information with which to corroborate his statements. For instance, the letter does not contain details about the Petitioner’s software design process, how the decreased valve selection time has impacted the industry overall, or how this technology is attributable to the Petitioner. [redacted] also asserts the Petitioner created and developed technologies such as the [redacted] both of which have “proved to significantly impact [the Petitioner’s] field of endeavor and represent a major contribution not only to the company but to the Oil & Gas industry as a whole.” However, apart from [redacted] assertion, we have little concrete evidence of how these technologies constitute major contributions to the industry. As we explained previously, generalized and conclusory statements that do not identify a specific impact in the field have little probative value.

² When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the Petitioner presents. *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir.1992); see also *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993).

The Petitioner also refers to a non-precedent decision, Matter of F-E-, ID# 46885 (AAO Mar. 20, 2017), concerning a petitioner whom we found eligible for a national interest waiver. This decision was not published as precedent and therefore does not bind USCIS officers in future adjudications. See 8 C.F.R. § 103.3(c). We acknowledge the Petitioner's attempt to provide similar evidence to that which the petitioner provided in the referenced non-precedent decision. However, Matter of F-E- may be distinguished based on the evidence in the record, the issues considered, and applicable law and policy. In Matter of F-E-, we determined that the proposed endeavor would affect the mining field more broadly. The specific facts of the individual case are not analogous to the matter at hand. Unlike the petitioner in Matter of F-E-, the Petitioner here has not adequately established that his proposed endeavor stands to impact his field more broadly or extend beyond his employer, partnerships, and clientele.

III. CONCLUSION

The documentation in the record does not establish a specific proposed endeavor. Even assuming the Petitioner intends to continue his current employment as his proposed endeavor, the evidence does not establish the national importance of it, 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 Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's remaining arguments concerning eligibility under the Dhanasar framework. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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).

The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.