



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

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

In Re: 28446236

Date: SEP. 13, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a drilling 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 for the visa 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 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

The Director determined the Petitioner established eligibility for the underlying EB-2 classification. 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.

A. 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 Drilling Engineer and Operations Manager within the Oil & Gas industry as an employee of a U.S.-based company, such as my current employer, [REDACTED] or as an independent consultant, working on offshore and onshore Oil & Gas projects. . . ." Although the Petitioner provided significant background detail on the work he performs for his current employer, he has not solidified how he will be employed as a drilling engineer and operations manager within the context of his proposed endeavor. Specifically, the Petitioner stated that he may work for his current employer or as an independent consultant. The record does not reflect whether the proposed endeavor involves pursuing one or both employment avenues and whether he would 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 the profession 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 an independent 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 drilling engineer and operations manager 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 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.

B. 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 shortage of qualified labor, the variety of applications for drilling technologies, as well as the size, economic value, and importance of the oil and gas industry and its impact on U.S. national security. We conclude that these materials support a 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 roles as a field service coordinator and operations leader. Through this, the Petitioner demonstrated the importance of optimizing drilling solutions, the precision required to implement various tools and techniques, as well as the training and knowledge required to safely perform drilling work. We understand that the role of a drilling engineer contributes to efficient oil extraction while minimizing cost and 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 drilling engineers. We conclude that the general importance of drilling solutions and the drilling engineer 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. 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. However, 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 drilling 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 drilling engineers [redacted] employs; how many drilling engineers each well or project requires; on how many wells or projects the Petitioner has served as a drilling engineer; how the number of wells he has drilled compares to other drilling engineers at [redacted] and in the industry as a whole; and how drilling engineers compare with other roles in the oil drilling process. Data such as this would offer context with which to determine whether the specific proposed endeavor's impact reaches beyond other drilling 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 drilling engineer positively impacts the United States by “improving the economy (promoting reliable and cost-conscious sources of energy for the nation); the improvement of wages and working conditions for U.S. workers, . . . and the improvement of the U.S. environment making more productive use of natural resources; influencing oil and gas companies to use best environmental protective measures.” He also stated that he ensures U.S. interests by “becoming more independent from foreign imports” and “bringing economic benefits to American-based companies by fostering the development of exploration and production enhancement strategies and mentoring other professionals.” The Petitioner emphasized the importance of the energy industry for the United States, the world’s economy, and society, requesting that we understand how the oil and gas industry works. Specifically, he stated:

[redacted] and its customers make up a substantial percentage of the Oil & Gas industry, so contributions made to benefit the company and its customers undeniably have broad consequences and, thus, already affect the industry as a whole . . . [T]he impact that [the Petitioner] has on the projects he has managed and the benefits he has brought clients, in the form of cost and time-saving, on-time-delivery, safety compliance, business management, etc. are meaningful to the Oil & Gas field and have repercussions in the industry as a whole.

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. If basic economics or the “ripple effects” of economic activity were sufficient to establish the national importance of a given endeavor, there would be little need to analyze the national importance of any endeavor. 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 accepting that [redacted] and its customers “make up a substantial percentage” of the oil and gas industry, this is still not sufficient to support a finding that the Petitioner’s specific proposed endeavor of working as a drilling engineer at [redacted] would have implications within the oil and gas field.

Although the Petitioner asserted that his work impacted and contributed to the industry as a whole, the examples he provided describe only impact and contribution to his clients and the other companies involved in the transaction. 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.

The record also contains broad and sweeping statements about impact with little corroborative evidence to support them. For example, the Petitioner provided a reference letter emphasizing that a conference lecture the Petitioner provided on behalf of [redacted] imparted contributions that “were crucial for the growth of American companies;” however, the author of the letter did not describe the exact contributions, how they were crucial, which American companies grew as a result, or how much

the companies grew. As such, it is difficult to ascertain how the Petitioner's lecture impacted the industry or economy. Similarly, several other reference letters contained anecdotes of an application the Petitioner developed that spread to other Latin American countries; however, the authors do not identify the other countries the application spread to, whether the application spread only within [redacted] operations in these countries or beyond, and the ultimate results for the industry. 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). Here, the authors' and the Petitioner's statements claim industry impact, but the statements are not sufficiently supported with evidence.

In response to the Director's RFE, the Petitioner provided an advisory opinion letter from [redacted] University. Regarding the national importance portion of *Dhanasar's* first prong, [redacted] provided a general overview of the Petitioner's qualifications and work history, emphasized the importance of the oil and gas field, the positive effects of properly training and retaining workers, the endeavor's positive impact on societal welfare, and how the endeavor impacts a matter that is the subject of federal government initiatives. The opinion letter, however, offers little independent analysis of the Petitioner's specific proposed endeavor. Instead, [redacted] relied upon the effects of economic activity without providing sufficient details to substantiate his conclusions. 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. 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 asserts the Director's decision violates the Administrative Procedures Act because it contains boilerplate, contradictory, and arbitrary statements and ignores the Petitioner's evidence. The Petitioner primarily relies upon the evidence and assertions he previously provided, which we addressed above.² The Petitioner continues to insist that USCIS lacks understanding of how the oil and gas industry functions. Here, the Petitioner assumes that if we properly understood how the industry works, then we would agree that the endeavor is of national importance. However, the interconnected and collaborative nature of the industry does not launch the Petitioner's endeavor towards national significance. Rather than a lack of understanding, our above discussion reflects that we do not find the endeavor's "ripple effects" to be a persuasive indicator of national importance.

The Petitioner states that USCIS failed to consider the importance of the Petitioner's training, education, and mentoring activities in addressing the shortage of personnel. Because he ensures employees properly use tools and technologies, operating them safely and efficiently, he thereby saves costs and time, while making drilling safer and better for the environment. In *Dhanasar*, we

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).

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. We likewise cannot conclude the Petitioner's training, education, and mentoring activities substantiate a finding that the Petitioner's work has impacted the field more broadly. Although, the Petitioner states on appeal that his work contributes "to the creation of thousands of jobs within the Oil & Gas industry," the documentation in the record, including the appeal, does not evidence any specific jobs the Petitioner created at [REDACTED] or in the industry as a whole. Nor does the documentation include corroborative details such as which jobs he created, how many of them, and how the created jobs resulted from the Petitioner's work.

On appeal, the Petitioner again emphasizes his successful past performance at [REDACTED] and the results he achieved for his employer and clients. The Petitioner draws our attention to how he negotiated favorable contract terms with two major customers. He states that "[b]y securing better terms, he facilitated the successful completion of these projects for all parties involved, thus benefiting his employer and other players in the Oil & Gas industry." However, as we explained above, the evidence does not substantiate how the Petitioner's past performance extended beyond his employer and clients to impact the field more broadly. Even if we were to accept that [REDACTED] and its customers are large and influential in the industry, the evidence provided would not sufficiently support a finding that the Petitioner's specific proposed endeavor or his involvement in negotiating contract terms impacted the field. Based on the evidence provided, the impact would appear to be the result of industry giants that influence the field regardless of the Petitioner's work with them.

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.