



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

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

In Re: 22679096

Date: JAN. 11, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a pilot, 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 that, although the Petitioner was an advanced degree professional and established eligibility for EB-2 classification, he had not demonstrated eligibility for a national interest waiver. The Director concluded that the Petitioner established that the proposed endeavor had substantial merit. However, the Director determined that the Petitioner had not established that the proposed endeavor was of national importance, that he was well positioned to advance the 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 the labor certification. 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 discretion,<sup>1</sup> 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.

## II. ANALYSIS

The Director determined that the Petitioner was a member of the professions holding an advanced degree.<sup>2</sup> The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

The Petitioner describes his proposed endeavor as follows:

I intend to continue using my expertise and knowledge in the field of aviation by working as a Pilot for airlines in the U.S. I have extensive experience in the areas of aviation aeronautics, flight operations, international flight operations, military aviation, crew resource management, flight safety, safety operations, flight logistics, and leadership. I intend to use my skill set to help curtail the shortage of pilots in the U.S.

He asserts that this proposed endeavor will “help fill the shortage of pilots and improve the efficiency of the U.S. aviation industry ... [and] substantially benefit the U.S. economy and national interest considering the airline industry’s national importance.”

The first prong of *Dhanasar*, 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. The Director determined that, although the Petitioner’s proposed endeavor has substantial merit, the record did not establish the proposed endeavor’s national importance.

On appeal, the Petitioner asserts that the Director did not fully review and consider all of the evidence in the record and erroneously calculated his total experience in the field and number of flight hours.<sup>3</sup> The Petitioner further contends that the Director did not apply the correct standard of proof when reviewing the evidence. While we acknowledge the Petitioner’s appellate claims, we nevertheless conclude that the documentation in the record does not sufficiently establish the national importance

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<sup>1</sup> 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).

<sup>2</sup> The record demonstrates that the Petitioner holds the equivalent of a U.S. bachelor’s degree earned in 2004, followed by more than five years of progressive experience. See 8 C.F.R. § 204.5(k)(3)(i)(B).

<sup>3</sup> The Director stated that the Petitioner has 25 years of experience and 4,260 flight hours. The Petitioner states in his professional plan and statement that he has 14 years of experience and 4,260 flight hours. The Director correctly stated the Petitioner’s flight hours and his overstatement of the Petitioner’s experience is immaterial to the decision’s outcome.

of the Petitioner's specific proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

With the initial filing and in response to the Director's request for evidence, the Petitioner submitted numerous articles on the shortage of airline pilots, industry reports on aviation, a national interest waiver eligibility advisory opinion, recommendation letters, and his professional plan and statement, among other pieces of evidence. Contrary to the Petitioner's claim, in the decision the Director identifies many of the Petitioner's submitted resources by title and includes direct quotations from several supporting documents. While we do not discuss each piece of evidence individually, we have reviewed and considered each one. In *Dhanasar*, we 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.* at 889.

The articles and reports evidence the shortage of airline pilots. However, as the Director noted, the labor certification process addresses shortages of qualified workers in fields. This fact alone is not sufficient to demonstrate that the Petitioner's proposed endeavor has national importance. We further note that the reference materials in the record do not discuss the Petitioner's specific proposed endeavor. 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." *See id.* at 889. Although we acknowledge the importance of the aviation and aeronautics fields, the Petitioner has not sufficiently explained and documented how his work as a pilot for U.S. airline companies would produce an impact rising to the level of national importance.

The Petitioner submitted an advisory opinion concerning the Petitioner's eligibility for a national interest waiver. The opinion primarily discusses the Petitioner's education and experience, as well as the U.S. pilot shortage and the aviation industry based on prior resources from 2016 to 2018. The advisory opinion does not contain a discussion of the Petitioner's specific proposed endeavor or its national importance. Furthermore, the opinion reiterates the information the Petitioner already provided in his resumé and professional plan without adding independent analysis. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, the advisory opinion is of little probative value as it does not meaningfully address the details of the proposed endeavor and why it would have national importance.

The Petitioner also submitted letters of recommendation documenting his experience as a pilot. Although the record demonstrates the Petitioner's achievements in his career in aviation, the evidence does not demonstrate the impact of his work on the overall field of aviation beyond his specific employers. 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).

The Petitioner states that he intends to “pursue positions within airline companies” in the United States. However, the purpose of a national interest waiver is not to enable a petitioner to engage in a U.S. job search. The Petitioner’s proposed endeavor, as described, is not specific enough to determine its broader impact. While the Petitioner’s services as a pilot will benefit his employer and the passengers he transports, the evidence does not support a finding that the Petitioner will meaningfully diminish the airline pilot shortage as a result of his proposed endeavor. As noted above, 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. Although the record contains descriptions of past and current employment, we have insufficient information concerning the Petitioner’s proposed future endeavor to conclude that it has national importance. While the evidence demonstrates the Petitioner’s prior distinguished service, honor, and merit, it does not support a finding of impact to the field of aviation.

The Petitioner repeatedly relies upon arguments related to the importance of the field, rather than the importance of the proposed endeavor. As we explained, merely working in an important field is insufficient to establish the national importance of the proposed endeavor. In addition, the Petitioner relies heavily upon his professional qualifications, his work history, and his experience to assert the national importance of the proposed endeavor. However, the Petitioner’s expertise relates to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the specific endeavor that the Petitioner proposes to undertake has substantial merit and national importance under *Dhanasar*’s first prong.

We conclude that the Petitioner has not offered sufficient evidence to corroborate his claims that the proposed endeavor has national importance. Even considering the claimed ripple effects, it is not apparent that the Petitioner’s proposed endeavor activities would operate on such a scale as to rise to the level of national importance. It is insufficient to claim an endeavor has national importance or will create a broad impact without providing evidence to corroborate such claims. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). 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 services would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Dhanasar*, 26 I&N Dec. at 890.

Because the Petitioner has not established that his proposed endeavor is of national importance, the remainder of the Petitioner’s arguments need not be addressed.<sup>4</sup> It is unnecessary to analyze any remaining independent grounds when another is dispositive of the appeal. Therefore, we decline to reach whether he meets the second and third prongs under the *Dhanasar* framework. *See INS v.*

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<sup>4</sup> Even if we had addressed the remaining issues and arguments, we still would dismiss this appeal. As noted above, the Director concluded that, although the proposed endeavor has substantial merit, the Petitioner did not establish its national importance, that he was well-positioned to advance the 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. On appeal, the Petitioner references the same supporting already in the record and does not provide any new evidence. The Director fully addressed the previously submitted evidence and explained how it was deficient in establishing that the Petitioner is eligible for a national interest waiver. The Petitioner’s arguments on appeal do not establish that he meets all of the three *Dhanasar* prongs as required.

*Bagamasbad*, 429 U.S. 24, 25 (1976) (finding it unnecessary to analyze additional grounds when another independent issue is dispositive of the appeal); *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

Because the Petitioner has not met the required first prong of the *Dhanasar* analytical framework, we conclude that he has not established eligibility for a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons.

**ORDER:** The appeal is dismissed.