U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37655098

Date: APR. 07, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an aviation professional and pilot, seeks employment-based second preference (EB-2) immigrant classification as an individual with exceptional ability, 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 the record did not establish the Petitioner's eligibility for the requested 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. An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. 8 C.F.R. § 204.5(k)(2).

Once 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." 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 a matter of discretion[1], 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 qualified for the underlying EB-2 classification as an individual of exceptional ability. Therefore, the remaining issue is whether the Petitioner established eligibility for a national interest waiver under the *Dhanasar* framework.

The first *Dhanasar* 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. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with the Director's conclusion that the proposed endeavor has substantial merit. However, while the Petitioner has established that the proposed endeavor has substantial merit, the record does not establish its national importance.

The Petitioner stated he is "an Airline Transport Pilot with an impressive record of success both piloting and [in] flight instruction." The Petitioner indicated his proposed endeavor was to "advance U.S. aviation industries by contributing to the education of aspiring new pilots, while also striving to reduce the nation's current shortage of Pilots and Flight Instructors." The Petitioner asserted he would join a major airline's training department and assume roles as both a ground school and simulator instructor. He indicated he endeavored to "make a significant impact on the Aviation Industry by ensuring that the next generation of Pilots receives high-quality training." The Petitioner also explained that he would work as a pilot and "facilitate domestic and international travel, thus promoting tourism, business activities, and trade," stimulate economic growth and employment opportunities, while further helping to reduce a shortage of qualified pilots in the United States. The Petitioner also submitted articles discussing a shortage of experienced pilots in the United States and highlighting the national economic impact of the aviation industry.

In response to the Director's request for evidence (RFE) asking for more clarification on the substantive nature of the Petitioner's proposed endeavor, the Petitioner stated that he is "quite familiar with FAA (Federal Aviation Administration) procedures and would be immediately available to U.S. [airline] companies to ameliorate this issue with not having enough qualified Airline Transport Pilots." The Petitioner asserted that his proposed endeavor would have significant potential to employ U.S. workers and have other substantial economic effects. He emphasized that there would soon not be enough pilots to meet demand in the United States and noted the direct effect he would have on the

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

economy transporting tens to hundreds of thousands of people annually while training future pilots. The Petitioner indicated that he would be able to develop "his own curriculum" and be able to "successfully teach students as a flight or ground instructor for airlines, schools, and universities." The Petitioner further asserted that his proposed endeavor aligned with government initiatives, including the Biden Administration allocating $25 billion to airports through the American Jobs Plan. In a provided professional plan, the Petitioner also stated that he would begin working as a pilot in the United States, contributing his piloting skills to U.S. airlines to reduce the U.S. pilot shortage while ensuring the safety of passengers. He indicated that he would later "transition into the role of Flight Instructor" shifting his focus to educating and training pilots.

The Director concluded the record did not demonstrate the national importance of the Petitioner's proposed endeavor reasoning he overemphasized his skills and experience and the importance of his industry rather than the specific endeavor he was proposing to undertake. The Director determined that the Petitioner did not demonstrate the potential prospective impact of his proposed endeavor and its national implications, including its significant ability to employ U.S. workers as a pilots or trainers of pilots.

On appeal, the Petitioner points to a "detailed business plan" it submitted outlining his proposed role as an airline pilot and certified flight instructor asserting that he would enhance aviation safety, pilot training, and workforce development emphasizing his impact on enhancing aviation safety and the size of the aviation industry, stating it represents 5% of the U.S. gross domestic product. The Petitioner again asserts that his proposed endeavor would have "a measurable national impact by addressing the ongoing pilot shortage" pointing to approximately 14,500 pilot openings annually over the next decade. The Petitioner states that his proposed endeavor would "undeniable national implications" as it would "develop the future workforce by training new, highly skilled pilots, and enhance public safety and airline operations, improving economic productivity and connectivity."

In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting 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.

The Petitioner provided generic and unsupported statements regarding the asserted potential prospective national impact of his proposed endeavor. For instance, the Petitioner stated that he planned on being employed in the United States as an airline pilot emphasizing this in his professional plan and asserting that this would address a claimed shortage of pilots in the country. The Petitioner indicated that the estimated shortage of pilots in the United States would be 14,500 annually; as such, it is not clear how filling one pilot position would have a national impact on this claimed national airline pilot shortage.

The Petitioner also suggested that he would later work as certified flight instructor developing the future workforce by training new, highly skilled pilots. It is uncertain how the Beneficiary would

primarily work as an active airline pilot while also providing consulting and training services at a level that would have a national impact on so many different aspects of the aviation industry, including the claimed national shortage of airline pilots, public safety, airline operations, and overall economic productivity and connectivity. The Petitioner provided little specificity as to his proposed endeavor, other than referring to his experience in aviation and aviation training, vaguely indicating he would get a job as either a pilot and/or a pilot trainer in the U.S. airline industry. However, the Petitioner provided little evidence to support this prospective employment or how it would have a national level impact on the shortage of pilots or overall airline safety on a national level as claimed.

To illustrate, the Petitioner emphasizes many times on appeal the size of the aviation industry and its impact to the U.S. economy indicating that it "underpins 5% of U.S. GDP" and contributes $1.8 trillion annually" to the U.S. economy. These provided numbers illustrate the size of the aviation industry as a whole leaving question as to the Petitioner's contention that he could have a national level impact on a pilot shortage through his own employment, while also impacting airline operations, safety procedures, among other aspects of the aviation industry, all while working as an airline pilot. In sum, the Petitioner did not provide sufficient detail as to his proposed plans and how they would have a potential prospective impact nationally, such as relieving the claimed pilot shortage, other than by employing one qualified airline pilot, instructor, or consultant at one airline. For example, the Petitioner states on appeal that 53% of aviation accidents are attributed to pilot error, suggesting his training could alleviate this safety issue. However, there are few specifics and little supporting documentation to demonstrate that his potential employment with as one trainer at a U.S. airline in such a large industry would have a national level impact on overall aviation accidents. The Petitioner does not sufficiently detail and document how his work in the aviation field would be materially different from any other similarly experienced employee, leaving doubt as to likelihood of its prospective national impact. The Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner regularly points to his "extensive experience as a Certified Flight Instructor" and his ability to train and mentor aspiring and experienced pilots" indicating that this mentorship and skill transfer is vital to workforce sustainability. However, these do not represent specific plans to address the claimed shortage of pilots in the U.S. aviation industry, but a mere discussion of his skills and experience. While it is true that a petitioner's expertise and record of success in previous positions are considerations under *Dhanasar*'s second prong, the second prong does not evaluate the prospective impact of an endeavor, but instead "shifts the focus from the proposed endeavor to the foreign national." *Id.* As such, while a Petitioner's background may be helpful in describing the nature of their field and prior work, it is not sufficient to establish the national importance of his proposed endeavor. Likewise, the Petitioner's reliance on his prior work experience does not establish the broader implications of his proposed endeavor as he has not shown how his prior work had broad implications to the field beyond the benefits realized by his former employers.

Generalized conclusory statements that do not identify a specific impact to the field have little probative value. *See e.g., 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). 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. *Dhanasar* at 893. Here too, the

record does not demonstrate that the Petitioner's proposed endeavor stands to sufficiently impact the aviation field more broadly at a level commensurate with national importance.

The record also does not establish that the Petitioner's endeavor "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 890. Although the Petitioner submitted vague and non-specific business plans asserting that he would work as one potential airline pilot and/or trainer at one airline, he did not properly substantiate how this would have a national level impact on an industry he states contributes $1.8 trillion annually to the U.S. economy. The Petitioner has not submitted specific and targeted business plans but provides generic assertions about impacting the safety of commercial aviation, the operational efficacy and expansion of commercial airlines and business aviation, a claimed national pilot shortage, amongst other national level issues, each which could be reasonably deemed separate, and large, portions of the greater industry. For example, the Petitioner did not provide any evidence to support that he would be employed by a U.S. based airline in his proposed training and consulting activities.

Although any basic economic activity resulting from the Petitioner's work has the potential to positively impact a local economy, he has not provided sufficient explanation of the prospective impact directly attributable to his proposed work, or established how his endeavor would impact an economically depressed area. We acknowledge that the Petitioner contends that there is a shortage of qualified pilots; however, a shortage of workers and his ability to fill one role does not alone establish that a proposed endeavor would likely have a prospective national impact. Again, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

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. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's eligibility and appellate arguments under *Dhanasar*'s second and third prongs. *See INS v Bagamasbad*, 429 U.S. 24, 25 ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached"); *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).

ORDER: The appeal is dismissed.