



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

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

In Re: 28945881

Date: NOV. 21, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a lawyer, seeks classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding that although the Petitioner qualified for classification as a member of the professions holding an advanced degree, she 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. 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. Next, a petitioner must then demonstrate they merit a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that USCIS may, as matter of discretion,¹ grant a national interest waiver if the petitioner shows:

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 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 concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. Accordingly, the remaining issue to be determined 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.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. *See Dhanasar*, 26 I&N Dec. at 889. 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.

In a professional plan and statement submitted with the petition, the Petitioner stated that she intends to continue her activities as a lawyer in the United States and noted that her familiarity with Brazilian law will assist U.S. companies engaged in cross-border projects.

She further stated:

My career plan in the United States is to work with law firms, businesses or corporations to provide expert advice as a lawyer. My extensive career working and studying in a wide array of specializations of law will be beneficial to the U.S. legal industry, especially when dealing with the complex laws of Brazil, Latin America, and abroad. Legal Consultants are vital resources to even the most sophisticated in-house legal departments because they bring management expertise, proprietary industry knowledge, insights into practices, and an objective viewpoint. Based on my deep familiarity with the Brazilian legal and bureaucratic landscape, I am uniquely qualified to help U.S. companies better navigate through the current political turmoil and economic difficulties in Brazil. My superior knowledge of the Brazilian legal system will bring an added benefit to the United States and my career as a lawyer.

...

With the approval of my visa petition, the United states will benefit from my unique legal expertise and skills as a lawyer. As previously discussed, the array of legal fields I have experienced in is vast and include civil law, extrajudicial and judicial relations, family and secession law, and legal advisory slash preventative law. Consequently my unique efforts will potentially impact the US buy;

- Help U.S. companies engaged in any cross-border projects
- Expanding businesses in the legal mediation market through online platforms
- Assisting low income individuals in legal services

- Contributing to the justice gap
- Expanding the American workforce

In addition to her professional plan and statement, the Petitioner submitted copies of her academic credentials, an expert opinion letter, letters of recommendation, and industry articles and reports.

The Director determined that the Petitioner's initial filing did not establish that the proposed endeavor had substantial merit or national importance. The Director observed that the Petitioner did not provide specific insight as to what she intends to do in the United States, and requested a detailed description of the proposed endeavor so that her request for a national interest waiver could be evaluated under the *Dhanasar* framework.

In response, the Petitioner submitted a new professional plan and statement which provided further information about her proposed endeavor. The Petitioner stated that her proposed endeavor was to "provide legal services for American companies that maintain a relationship with the Brazilian Market." She further stated that she "will focus her work in bringing good collaboration to private sector companies, which somehow maintain a relationship with the resilient market and need bilingual professionals and knowledge of national legislation."

The Petitioner also stated that she intended to focus on providing services to American companies in the context of corporate law and legal compliance. Specifically, she stated:

In the field of Corporate Law, through preventive legal advice, I will provide companies with detailed guidance and clarification on all the rights and duties of the company and the entrepreneur according to the Brazilian law system, in order to reduce the risk of the activity and, consequently, the losses, which impacts any increase in the company's profit. Through detailed analysis and drafting of contracts, I will manage to prevent future risks and guarantee the company an effectiveness in commercial relations, reducing possible losses with the objective of a fair agreement.

In Legal Compliance, I will ensure that the company's day-to-day practices comply with the internal statutes and the Brazilian legislation that governs its activities, ensuring compliance with labor, tax, consumer law, etc., all rights and duties, contracts and legalization applicable to the company, all with the aim of reducing the risks of the activity and preventing legal proceedings. I will provide all legal advice from the beginning to the end of the process, always applying the most recent Brazilian legislation and jurisprudence that are favorable to the client, developing an objective and effective defense.

The Petitioner also noted that she would use her legal experience "to improve operations and achieve better productivity and profitability levels, therefore generating revenues within the country and creating employment opportunities."

The Petitioner also submitted a new expert opinion letter and additional letters of recommendation in support of her eligibility for a waiver of the job offer.

In denying the petition, the Director determined that the Petitioner demonstrated the proposed endeavor's substantial merit, but did not provide sufficient evidence to establish the proposed endeavor's national importance. The Director determined that the Petitioner had not shown that her proposed endeavor had significant potential to employ U.S. workers, would offer substantial positive economic effects for the United States, or that the benefits to the national economy resulting from the proposed endeavor would reach a level contemplated by the *Dhanasar* framework.

On appeal, the Petitioner provides a brief emphasizing her qualifications as a lawyer. She further asserts that she has submitted substantial evidence of significant past achievements, and that these achievements are a way to assess the potential prospective impact of her proposed endeavor.

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.

The Petitioner claims that her proposed endeavor has national importance because law and legal services impact all sectors of the economy. In support of her arguments, she offered information, including articles and reports, about the importance of law and legal consulting and its crucial role in the U.S. economy, the effect of COVID-19 on the legal sector, and the importance and significance of cross-border transactions. We recognize the value of law and legal services; however, merely working in an important field is insufficient to establish the national importance of the proposed endeavor.²

Similarly, the Petitioner's professional plans emphasize the value of law and legal services instead of focusing on the prospective impact of her specific endeavor. The Petitioner discusses the benefits of legal consulting, highlighting how her familiarity with Brazilian law will promote and facilitate cross-border transactions and stimulate the economy by creating jobs and revenue. However, the Petitioner does not point to any corroborating evidence that would directly link her specific endeavor to the overall economy's growth. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Throughout the record and in her professional plans, the Petitioner points to her background, education, and experience in her field.³ The Petitioner also provided several letters of support that

² We further note that the Petitioner's counsel refers to these reports and articles throughout the record, asserting that the status of the U.S. legal sector impacts the U.S. people and its economy. On appeal, counsel emphasizes the Petitioner's experience in the field and generally asserts that her proposed endeavor will help facilitate cross-border transactions and assist companies engaged in international contract negotiations, thereby helping the national economy by providing crucial legal consulting services to U.S. companies. The assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. at 534 n.2 (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 506). Counsel's statements must be substantiated in the record with independent evidence, which may include affidavits and declarations.

³ While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

discuss her legal capabilities and experience. The Petitioner's knowledge, skills, and experience in her field, however, relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." See *Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the specific endeavor that she proposes to undertake has national importance under the second consideration of *Dhanasar*'s first prong. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. While the evidence indicates that she is an experienced attorney in Brazil who appears to be well-respected by her colleagues, the record does not contain evidence that the Petitioner's past achievements resulted in a broad impact on the legal field, and the Petitioner's general, conclusory statements to the contrary are insufficient to meet her burden of proof. We also note that while a Petitioner's past work and achievements may be helpful in illustrating how they plan to carry out their proposed endeavor or its potential prospective impact, the focus of the first prong is on the proposed endeavor itself and not the petitioner. See *id.* at 889.

The Petitioner submitted advisory opinions from [redacted] associate teaching professor of law at [redacted] University School of Law, and [redacted] chief of staff in the office of general counsel for [redacted] letter generally discusses the Petitioner's qualifications and experience as a lawyer and her potential to provide legal services to companies seeking to expand into international markets as well as low-income Americans. The letter from [redacted] focuses on the high demand for legal professionals, noting that the occupation of lawyers/attorneys is anticipated to increase 10% by 2031. [redacted] also discusses the Petitioner's professional experience and accomplishments and notes that her expertise in Brazilian law will potentially benefit U.S. companies and clients in a variety of business and commercial transactions. Neither writer discusses with specificity the Petitioner's proposed endeavor, or how such an endeavor will have national or global implications within the field, will have significant potential to employ U.S. workers, or will have other substantial positive economic effects, particularly in an economically depressed area as mandated by *Dhanasar*. *Id.* at 890.

Although both writers discuss the Petitioner's qualifications, as well as the importance of the legal sector, the growing demand for legal professionals, and the importance of cross-border transactions and relations, their conclusions are not based on the national importance of the Petitioner's specific endeavor. Moreover, while they recite the Petitioner's career history and accomplishments, and praise her success as a lawyer in Brazil, their findings stem from the significance of law and legal services, particularly in relation to legal consulting for U.S. companies engaging in business with Brazil and Latin America. The letters therefore does not establish the national importance of the Petitioner's specific proposed U.S. work. See *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (holding that the immigration service may reject or afford less evidentiary weight to an expert opinion that conflicts with other information or "is in any way questionable"). The letter does not contain sufficient information and explanation of the Petitioner's proposed endeavor, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work as a lawyer offers broader implications in her field or substantial positive economic effects for our nation that rise to the level of national importance.

We noted in *Dhanasar* that "we look for broader implications" of the proposed endeavor and 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.” See *Dhanasar*, 26 I&N Dec. at 890. Although the Petitioner recounts the value and importance of law and legal services and their general impact on business growth, *Dhanasar* requires us to focus on the “the specific endeavor that the foreign national proposes to undertake,” not the importance of the field, industry, or profession in which the individual will work. *Id.* at 889.

While the Petitioner claims that she will use the legal system to help clients, provide advice to corporations on a variety of legal issues, promote the growth of U.S. jobs, and facilitate cross-border transactions, several of these objectives simply describe the typical occupational duties of an attorney rather than establishing that the Petitioner’s specific proposed endeavor has national importance.⁴ Additionally, other than listing these objectives, the Petitioner’s professional plans do not provide further specific details as to how these objectives would be accomplished. The Petitioner’s statements reflect her intention to provide valuable legal consulting services for her clients or employers, but she has not offered sufficient information and evidence to demonstrate that the prospective impact of her 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 her field more broadly. See *id.* at 893. Here, we conclude the Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her employers or clients to impact her field, the legal sector, or the U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor she 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 her future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner’s legal consulting services 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 her 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 her 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).

⁴ In determining national importance, the analysis focuses on what the petitioner will be doing rather than the specific occupational classification. For instance, although the petitioner in *Matter of Dhanasar* was an engineer by occupation, the decision discusses his specific proposed endeavor “to engage in research and development relating to air and space propulsion systems, as well as to teach aerospace engineering.” See generally 6 *USCIS Policy Manual* F.5(D)(1), <http://www.uscis.gov/policy-manual>; see also *Matter of Dhanasar*, 26 I&N Dec. at 891.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.