



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

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

In Re: 29060652

Date: DEC. 18, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a foreign legal consultant, seeks classification as either a member of the professions holding an advanced degree or an individual of exceptional ability. 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. 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 Nebraska Service Center denied the petition, concluding that the Petitioner qualifies for the EB-2 classification as an advanced degree professional but that the record did not establish that a waiver of the job offer requirement is 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 immigrant 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, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. While neither 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 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 qualifies for the EB-2 classification as an advanced degree professional.² The record shows that the Petitioner possesses a bachelor of law degree from Brazil, obtained in 2011, followed by at least five years of progressive experience in the specialty. 8 C.F.R. § 204.5(k)(2). The Director also determined that the Petitioner established the substantial merit of the proposed endeavor. However, the Director found that the Petitioner did not establish the national importance of the proposed endeavor, that she is well-positioned to advance it, or that, on balance, waiving the job offer requirement would benefit the United States.

The Petitioner states that her proposed endeavor is to “provide my knowledge and skills in the [l]egal and [a]dministrative [a]reas, working both nationally and internationally in the private and public sectors.” In her updated statement, which was submitted in response to the Director’s request for evidence (RFE), the Petitioner states that she will offer her “extensive experience in law, labor law and labor process, litigation, negotiation, and consultations involving labor, business, civil, social security, and family law.” The Petitioner further states that she will “advise and assist American companies in seizing profitable opportunities with legal certainty, generating revenue, preventing costs, avoiding losses, and securing resources while engaging in cross-jurisdiction businesses, especially in the Brazilian market.” The Petitioner did not state whether she intends to pursue this endeavor through self-employment or whether she plans to seek employment at a company or law firm. However, the Petitioner did submit in response to the RFE correspondence with organizations seeking to hire attorneys or legal assistants as evidence of potential job opportunities.

In determining that the Petitioner did not establish the national importance of the proposed endeavor, the Director concluded that there was insufficient evidence to demonstrate that the Petitioner’s proposed endeavor has potential implications beyond her future employer or clients. The Director acknowledged the importance of the field of entrepreneurship in general, but noted that, in determining national importance, the relevant focus is not on the importance of the industry, field, or profession in which the individual will work, but rather on the specific endeavor that the individual proposes to undertake. The Director also determined that there was insufficient evidence regarding the potential economic impact or job creation of the proposed endeavor to establish benefits to the regional or national economy that would reach the level of substantial positive economic effects.

On appeal, the Petitioner asserts that the Director’s decision contains “numerous erroneous conclusions of both law and fact.” The Petitioner asserts that, contrary to the Director’s conclusions,

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).

² Because the Director determined that the Petitioner qualifies as an advanced degree professional, the Director did not make a finding as to whether the Petitioner established that she is an individual of exceptional ability.

the record does establish that the Petitioner's proposed endeavor stands to have national or even global implications in the field and positive economic benefits that reach beyond her employers and clients to benefit the nation. Specifically, the Petitioner claims that she has established the national importance of the proposed endeavor based upon her past achievements in the field, her knowledge of the Brazilian market, her ability to facilitate trade between the United States and Brazil, the size of the global legal market, and her ability to promote equality and justice.

In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

Upon de novo review, we agree with the Director that the record does not establish the proposed endeavor's national importance. First, as to the Petitioner's claim that her past achievements demonstrate the national importance of the endeavor, she asserts that "her contributions have rendered impressive results," that the results of her work "are widely disseminated to other professionals in the legal field," and that "she has made and continues to make contributions of significant impact—including being responsible for defending her clients' rights and fostering justice and equality for clients and enhancing the human relations in the society." However, in support of these claims, the Petitioner does not cite on appeal to specific achievements or impacts of her work. Instead, the Petitioner recounts her professional work history, which includes internships at a legal publication and at the [redacted], administrative and legal assistant jobs, a job as a legislative advisor at a local city council's office, a legal advisor at two companies, and a partner at a law office. But the Petitioner does not describe—and the record does not contain evidence of—past achievements that have 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.

Moreover, we also note that while a petitioner's achievements in the field may be relevant in some circumstances in establishing the potential prospective impact of their endeavor, the focus of the first prong is on the proposed endeavor itself and not the petitioner. *See id.* Evidence of the Petitioner's skills, expertise, and record of success generally relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the [noncitizen]" and whether they are well-positioned to advance it. *Id.* The Petitioner must establish that her specific endeavor—to work as a lawyer and legal consultant—has national importance under *Dhanasar's* first prong. The Petitioner has not explained how her achievements in the field demonstrate that the endeavor has the potential to impact the legal field or the economy at a level commensurate with national importance.

The Petitioner also discusses on appeal a report about U.S. companies' interest in pursuing cross-border transactions, and their concerns about the complexities of these types of deals. The Petitioner states that, with her ability to advise clients on cross-border transactions, her endeavor "will foster [f]oreign [t]rade and strengthen Brazil and U.S. commercial relations." The Petitioner also discusses the importance of the legal services industry and of trade to the United States economy. The Petitioner submitted the headline of an article about the rising demand for contract attorneys, a report about

increasing trade between the United States and Brazil, and an article about the basics of contract negotiations. However, these claims and evidence related to foreign trade and legal services in general are not sufficient to demonstrate the impact of the Petitioner's specific proposed endeavor. We agree with the Director that, in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the potential prospective impact of the "specific endeavor that the [noncitizen] proposes to undertake." See *Matter of Dhanasar*, 26 I&N Dec. at 889. The general claims about the growth of the legal services industry and the importance of trade between the United States and Brazil do not help establish that the Petitioner's specific endeavor has the potential to impact the U.S. economy, trade relations, or the legal field on a scale commensurate with national importance.

Finally, the Petitioner claims that the endeavor will promote equality. The Petitioner states that "the justice gap affects those living in poverty and perpetuates poverty" and that "providing attorneys for litigants in cases involving housing, health care, and domestic violence saves governments money and creates both social and economic benefits." The Petitioner further claims that her endeavor will "promote social peace and societal welfare and will impact directly and indirectly the entire nation." But the record is not clear that the Petitioner's proposed endeavor involves providing legal services to vulnerable or indigent populations. In the Petitioner's statement and elsewhere on appeal she primarily describes the focus of her endeavor as providing advice to corporate clients related to international business deals, labor law, negotiations, contracts, and foreign law issues. Although the record reflects the Petitioner's intention to advocate for and protect the interests of her clients, the record does not establish that the Petitioner's proposed endeavor stands to promote equality and societal welfare beyond her clients' interests, or specifically for vulnerable populations, at a level commensurate with national importance.

The Petitioner makes many broad claims on appeal about the national importance of the endeavor, asserting that the Petitioner's services "will result in a substantial impact on the legal industry," that the endeavor "will create a positive ripple effect in the society," and that her expertise "will translate into economic benefits for U.S. companies along with the increase in productivity, competitiveness, generation of revenue, creation (sic), and support of U.S. jobs." However, these claims are not supported by the evidence in the record. The record includes the Petitioner's initial statement, an updated statement submitted in response to the RFE, her educational and professional history, reference letters, and articles about trade relations and the legal occupation. Although the evidence demonstrates that the Petitioner is an experienced attorney in Brazil and that she intends to provide legal services in the United States, the evidence does not demonstrate that the potential prospective impact of this endeavor will benefit the U.S. economy or the legal field at a level that would rise to national importance.

The Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We acknowledge the Petitioner's arguments on appeal as to the second and third prongs of *Dhanasar* but, having found that the evidence does not establish the Petitioner's eligibility as to national importance, we reserve our opinion regarding whether the record establishes the remaining *Dhanasar* prongs. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); 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 the applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not met the national importance requirement of the first prong of *Dhanasar*. We therefore conclude that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.