



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 29227708

Date: DEC. 20, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a legal consultant, 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 national importance of the proposed endeavor or that it would be in the United States' interest to waive the requirement of a 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 discretion¹, grant a national interest waiver if the petitioner demonstrates that:

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 determined that the Petitioner qualifies for the underlying EB-2 classification. Therefore, the remaining issue 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.

The first Dhanasar 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. Dhanasar, 26 I&N Dec. at 889.

We reviewed the Petitioner's business plan, recommendation letters, training certificates, and statements, all of which emphasize the Petitioner's education, experience, and skill. However, the Petitioner's personal and professional qualifications relate to the second prong of the Dhanasar framework, which "shifts the focus from the proposed endeavor to the foreign national." Id. at 890. The issue here is whether the specific endeavor the Petitioner proposes to undertake has substantial merit and national importance under Dhanasar's first prong.

In the initial filing, the Petitioner stated that she can work as a foreign law consultant so that U.S. companies investing in Brazil and Brazilian companies investing in the United States do not incur fines or losses. She will use her legal education and experience to integrate and facilitate the expansion of these businesses. In support, the Petitioner offered background information on presidential initiatives concerning Brazil, urban planning, registered warrants to resolve tax debts, as well as regulatory and compliance matters for construction companies. In response to the Director's request for evidence (RFE), she stated that she will open her own business, [REDACTED]. The verbatim description of her business offerings include:

[I]nternational consultancy services specialized in legal matters between the United States and Brazil, helping American companies to participate in public bids or make business in Brazil and to deal with credit compensation and tax debts reducing its costs, at the same time that Brazilian companies may come to invest in American soil, and feel safer looking for a local consultancy (in American soil) that speaks Portuguese and understands of American jurisprudence.

The prospective impact of her endeavor includes generating direct and indirect jobs and potentially boosting the North American economy. In support, she provided explanations of the "ripple" and "multiplier" effects of her business in creating jobs, generating taxes, and improving communities. Her business plan offers information regarding the value and economic worth of corporate consultancy and the value of immigrant entrepreneurs. She expressed her intent to hire local professionals in her

new business and estimated that by year five, her endeavor would generate \$890,000 in revenue and create six direct jobs.

The Director determined the Petitioner did not establish the national importance of the endeavor. We agree. As the endeavor's projected revenue and job creation figures necessarily depend upon the number and size of the Petitioner's clients, a simple claim of what she hopes her business will achieve amounts to little more than conjecture. Even if the endeavor's revenue and job creation projections were more than conjecture, they nevertheless would not suggest that the endeavor operates on a scale rising to the level of national importance. Further, the Petitioner does not offer an evidentiary basis to conclude that the "ripple effects" of her proposed endeavor will extend beyond her own business and clients. While any basic economic activity has the potential to positively impact the economy, the Petitioner has not demonstrated how the economic activity her proposed endeavor generates would rise to the level of affecting the U.S. economy. 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 *id.* Although she asserted her endeavor will boost the North American economy, the Petitioner has not provided evidence of a sufficiently direct connection between her business and the claimed economic impact.

We agree that corporate consultancy services, foreign investment, as well as legal and tax representation are important; however, the importance of overall industries and the occupations within them does not necessarily establish the national importance of the 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 *id.* at 889. The Petitioner's reliance on background information and statistics concerning the economic worth and value of an industry is misplaced, as it does not address the specific proposed endeavor's impact.

On appeal, the Petitioner again highlights the "ripple" and "cascade" effects of her endeavor and relies upon her qualifications, experience, and ability to carry out the proposed endeavor. She proposes to change her business name to "[redacted]" which focuses on tax credit services, litigation representation, affordable housing in the real estate market, and attracting foreign direct investment. In support, she provides a new business plan with sections discussing the affordable housing crisis and demonstrating how affordable homes create positive long-term effects for families and the economy. Her evidence also includes an explanation of what tax credits are and how they are useful, the difficulty of real estate zoning compliance, and the value of property and tax relief consultancy services. The updated business plan contains new revenue projections along with a new estimate that her business will create 29 direct jobs by year five.

While we acknowledge these changes on appeal, they do not overcome our above analysis. To illustrate, although the Petitioner may offer services that other businesses use to build and sell affordable housing, she does not offer estimates of how many clients she will serve in this area, how the building and sale of affordable homes are directly attributable to her services, or how the housing occupants, even in the aggregate, will refurbish their community or produce the claimed contributions to the economy. The Petitioner must support her assertions with relevant, probative, and credible evidence. See *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). We conclude that the claimed impact of her endeavor is overbroad, generalized, and unsubstantiated. The Petitioner has not offered

sufficient evidence to support her assertions of the endeavor's national importance. Therefore, she has not established eligibility under *Dhanasar's* first prong.²

III. CONCLUSION

The documentation in the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose.

Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve 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).

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. The appeal will be dismissed for the above stated reason.

ORDER: The appeal is dismissed.

² We acknowledge the Petitioner's evidence on appeal, including her and her family's real estate holdings and financial capabilities; however, we do not analyze this evidence in the decision because it relates to the second *Dhanasar* prong.