U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37290387

Date: JUL. 16, 2025

Appeal of Service Center Operations 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).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not demonstrate the Petitioner's eligibility. The Petitioner thereafter filed a combined motion to reopen and reconsider, and SCOPS dismissed the combined motion.[1] The matter is now before us on appeal pursuant to 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 qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(k)(2). A U.S. 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. *Id.* If a doctoral degree is customarily required for the specialty, the non-citizen must possess a U.S. doctorate or a foreign equivalent degree. *Id.*

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement "in the national interest."

[1] SCOPS initially dismissed the combined motion as untimely but reopened it on a service motion and subsequently dismissed the combined motion on the merits. 8 C.F.R. § 103.5(a)(5).

Section 203(b)(2)(B)(i) of the Act. *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,[2] 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.

Id.

II. ADVANCED DEGREE

Before a petitioner can establish eligibility for a national interest waiver, the petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability. Here, as an initial matter, we withdraw SCOPS' determination that the Petitioner established that she is an advanced degree professional.

As confirmed by the evaluation that the Petitioner included in support of the NIW petition, her Brazilian law degree, a *Bacharela em Direito*, is the equivalent of a bachelor's degree in the United States. Information from the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE) supports the evaluation, stating that:[3]

> The *Bacharel em Direito* . . . is awarded upon completion of a 5-year program of university study in law.

EDGE also indicates that:

> The *Bacharel em Direito* . . . represents attainment of a level of education comparable to a bachelor's degree in the United States.

For purposes of establishing that she has the equivalent of an advanced degree based on the equivalent of a U.S. bachelor's degree that she holds, the Petitioner must establish that she also has at least five years of progressive experience in the specialty after she received her degree in May 2012 and prior to the November 2022 filing date of this NIW petition. *See* 8 C.F.R. § 204.5(k)(2) (defining advanced degree); *see also* 8 C.F.R. § 103.2(b)(1) (requiring petitioners to establish eligibility at the time of filing the benefit request). Moreover, such evidence must be in the form of letters from current or former employer(s) showing that a Petitioner has at least five years of progressive post-baccalaureate experience in the specialty. 8 C.F.R. § 204.5(k)(3).

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

[3] We consider EDGE to be a reliable source of information about foreign credential equivalencies. *See Confluence Intern., Inc. v. Holder,* Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). *See also Viraj, LLC v. Holder,* No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013). *See* https://www.aacrao.org/edge/country/brazil for information regarding the education system in Brazil and credential equivalencies (last accessed April 14, 2025).

The Petitioner's evidence, including her October 2022 statement, a supporting Department of Labor (DOL) ETA Form 750, her 2022 Form I-485, Application to Register Permanent Residence or Adjust Status, and the photocopy of her physical Brazilian Carreira de Trabalho e Presidencia Social setting forth her employment history in Brazil until April 2013, collectively shows that the Petitioner asserted the following work history during the relevant period after she received her law degree in May 2012:

Company	**Employment Began**	**Employment Ceased**
[redacted]	May 2012[4]	April 2013
Independent lawyer (for musical theater company in Brazil)	April 2018	[August 2022, date of entry into the United States]
Contract Specialist Developer (for [redacted] in Brazil)	March 2020	[August 2022, date of entry into the United States]

The Petitioner included an October 2022 letter of support from J-R-P-, a former colleague in Brazil whose company acquired [redacted] and who described having collaborated with her from approximately 2007 until 2012. However, J-R-P- did not discuss or attest to having knowledge of the Petitioner's relevant post-baccalaureate work history at [redacted] after 2012. The Petitioner also provided a May 2016 contract showing that [redacted] in Brazil entered into a prospective agreement to pay the Petitioner for her work as a legal consultant, but the contract does establish her subsequent work history. She also included a July 2022 letter from [redacted] in Brazil in which the company attested that the Petitioner performed legal and administrative services relating to a specific contract between an unstated date in 2014 to April 2015. However, the company specified that they did not have an employment relationship with the Petitioner and did not otherwise include information that would otherwise establish the nature and amount of time that she performed contract work for them. Although the Petitioner's appellate materials include documentation showing that she recently has worked for companies in the United States, this work experience post-dates the November 2022 filing of the NIW petition and therefore cannot be considered as establishing her eligibility. 8 C.F.R. § 103.2(b)(1).

Finally, USCIS records reflect that when the Applicant previously submitted a nonimmigrant visa application in September 2021, she did not list any of the above work experience (including her work as an independent lawyer), instead attesting that she only had worked in Brazil as an aeronautical consultant at her own business, [redacted] since April 2020 and had "no" prior employment. Based on the Petitioner's own contradictory claims as the lack of required evidence in the form of employer letters regarding her post-baccaluareate employment history, the record does not establish how much progressive work experience she gained after she received her degree in May 2012, if any. Consequently, the Petitioner has not established that she has the minimum of five years of progressive experience in the specialty after receiving her May 2012 degree, as required to establish that she has an advanced degree. 8 C.F.R. § 204.5(k)(2), (3). Therefore, we withdraw SCOPS' finding

[4] Although the Petitioner began working for this entity in 2006, her relevant post-degree experience for purposes of this NIW petition began in May 2012.

that the Petitioner has demonstrated that she is an advanced degree professional. In addition, as the Petitioner does not claim (and the record does not establish) that she is an individual of exceptional ability, she has not demonstrated eligibility for the underlying classification. For these reasons, the Petitioner has not established that she has the qualifications for EB-2 classification. On this basis alone, the NIW petition may not be approved. 6 *USCIS Policy Manual* F.5(D), https://www.uscis.gov/policy-manual; *see also* USCIS Policy Alert, PA-2025-03: *Second Preference Eligibility for National Interest Waiver Petitions* (Jan. 15, 2025), https://www.uscis.gov/policy-manual/updates (USCIS evaluates threshold eligibility for the EB-2 classification prior to addressing national interest waiver eligibility).

III. NATIONAL INTEREST WAIVER

The Petitioner's proposed endeavor is in the field of strategic and legal consulting for aircraft transactions in the aviation industry. According to the Petitioner, she will use her 25 years of combined experience and specialized skills to negotiate the leasing, sales, and purchase of aircraft and flying equipment and supplies between companies in the United States and Brazil.

SCOPS concluded, among other findings, that the record did not establish that the Petitioner's proposed endeavor in the United States was of national importance. Based on our de novo review of the record, we agree with this conclusion. Specifically, we find that that the Petitioner has submitted insufficient evidence regarding the national importance of her proposed endeavor such that she can establish that it meets the requirements of the first *Dhanasar* prong.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. *See Matter of 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. *Id.*

On the NIW petition, the Petitioner stated that she would work as a lawyer and that she would represent clients in criminal and civil litigation and other legal proceedings, and draw up legal documents. With the NIW petition, she submitted a professional plan and personal statement, in which she asserted that she intends to continue her career in the United States by applying her "legal expertise in the aviation industry to provide aviation consulting services for domestic and cross border aircraft transactions." The Petitioner went on to describe her academic and professional background and skills and achievements and how they support her goals. She asserted that her proposed endeavor was to work as a legal consultant in matters related to aviation and aircraft acquisition, providing specialized services to domestic and international clients. The Petitioner stated that she intends to bring efficient solutions to strategic, commercial, financial, operational, technical, and regulatory questions related to aircraft ownership. In response to a request for additional evidence, the Petitioner emphasized that she would facilitate transactions for U.S. manufacturers to sell and export their aviation equipment and parts.

On appeal, the Petitioner claims that she has submitted detailed evidence of her proposed endeavor and contends that SCOPS overlooked her previously submitted evidence of eligibility for the requested petition. In support of her argument that her endeavor has national importance, she states that it will

support and expand the U.S. aerospace and defense industry. She further asserts that her endeavor will fuel a cross-sectional productiveness increase in the United States and impacts U.S. – Brazil trade relations. She includes a new personal statement and additional letters of support from other airline executives who assert that the Petitioner has worked for them while she is in the United States.

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, as stated, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See id.* 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.

With respect to the support letters from the Petitioner's prior professional associates and current employers,[5] the authors discuss her qualifications and professional accomplishments in Brazil and now in the United States. While acknowledge the Petitioner's claim that SCOPS failed to address these letters of recommendation in detail, the Petitioner's skills, expertise, and abilities as described in these letters 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 she proposes to undertake has national importance under *Dhanasar's* first prong. The recommendation letters did not discuss the Petitioner's proposed endeavor in the United States with any specificity to support its national importance. Evidence of the Petitioner's prior work history, whether in Brazil or the United States, does not speak to her proposed endeavor and whether that specific endeavor would have national importance.

With respect to the new letters provided on appeal, the writers discuss the Petitioner's recent work for individual companies in the United States. For example, one executive named R-C- states that he was impressed with the Petitioner after interviewing her in October 2023, and that she now works for the company as a contract account manager at his company in Florida. Similarly, an executive named F-O- states that the Applicant has played a crucial role in helping his company export two airplanes to Brazil and describes her language skills and knowledge of various aspects of the airline industry. Although these executives describe the work that the Petitioner currently performs for them and express general support for her to continue working in the United States, they also do not describe the Petitioner's own proposed endeavor with specificity or address its potential prospective impact.

The Petitioner contends that her proposed endeavor to provide strategic and legal consulting services for aircraft transactions will foster the aerospace and defense industry in the United States and establish critical commercial links between U.S. suppliers and the Brazilian market, which should be taken into consideration in determining its benefits for the United States. According to the Petitioner, even one sale can have a ripple effect that will result in job creation. The Petitioner also submitted announcements regarding the former Biden-Harris Administration's initiatives to increase funding for airport improvement and development, and airline industry reports and articles regarding business

[5] In fact, it is unclear from the record whether the U.S. entities who describe the Petitioner's current services are in fact her employers or clients.

aviation activities, particularly within the post-COVID pandemic recovery period. However, these announcements, reports, and articles discuss the aviation industry itself and its importance, and do not address how the Petitioner's own proposed endeavor has broader implications within the field consistent with its national importance. *See id.* at 889. Merely working in an important field is insufficient to establish the national importance of a petitioner's proposed endeavor without evidence documenting the "potential prospective impact" of a petitioner's specific work. Here, apart from general assertions regarding the importance of the aviation industry, the Petitioner has not provided corroborating sufficient evidence to demonstrate that her proposed endeavor has broad implications in the field of her endeavor (providing strategic and legal consultation to facilitate discrete aircraft transactions between United States and Brazil), or in the aerospace and defense industry at large, as she claims, beyond the impact for the Brazilian or U.S. entities for whom she would provide services.

Additionally, we acknowledge the Petitioner's assertions that her endeavor will have ripple effects in job creation. However, the Petitioner does not explain and does not provide corroborating evidence demonstrating her endeavor's potential to employ U.S. workers and at a level that is significant, and the record does not otherwise show how her endeavor stands to create substantial positive economic effects, particularly in an economically depressed area, commensurate with its national importance. *Id.* at 890.

It is the Petitioner's burden to prove by a preponderance of evidence that she is qualified for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Id*. We acknowledge the Petitioner's references on appeal to previously submitted evidence. However, the Petitioner does not clarify how these documents establish her eligibility for the national interest waiver as claimed on appeal. Commensurate with the Petitioner's burden of proof is the responsibility for explaining the significance of proffered evidence. *Repaka v. Beers*, 993 F. Supp. 2d 1214, 1219 (S.D. Cal. 2014); *see also Adler v. Duval Cnty. Sch. Bd.,* 112 F.3d 1475, 1481 n. 12 (11th Cir. 1997) (noting in a civil case that, absent plain error, it is not the place of an appellate body to grant appellants relief "based on facts they did not relate"). As the Petitioner has not done so here, she has not sufficiently established that her proposed endeavor in the United States has national importance under the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver

The Petitioner additionally argues on appeal that SCOPS decision did not thoroughly assess the totality of the evidence, did not sufficiently explain the reasons for the denial, and used boilerplate language. However, SCOPS' denial makes specific findings of fact and conclusions of law regarding the Petitioner's request for a national interest waiver and addresses each of its eligibility requirements. The denial also refers to, excerpts, and analyzes several pieces of evidence the Petitioner submitted below.

Finally, SCOPS concluded that the Petitioner did not establish that she is well-positioned to advance the proposed endeavor and 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. However, since the above identified bases for denial are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve these issues. *See INS v. Bagamasbad,* 429 U.S. 24, 25 (1976); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015).

III. CONCLUSION

The Petitioner has not established that she has an advanced degree for purposes of establishing eligibility for underlying EB-2 immigrant classification, and we therefore withdraw SCOPS' finding to the contrary. In addition, the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework for a national interest waiver because she did not establish the national importance of the proposed endeavor. Consequently, the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver. The petition will remain denied.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.