U.S. Citizenship and Immigration Services

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

In Re: 32261766

Date: JUL. 24, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a legal consultant, seeks second preference 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 EB-2 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 Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal on the same basis. The matter is now before us on motion to reopen.

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). Upon review, we will dismiss the motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

The Petitioner has consistently stated her intent to establish a Florida-based legal consulting firm that will offer services to foreign companies, mainly located in Brazil, seeking to expand their operations to the U.S. market, and to U.S. companies seeking to expand their operations to Brazil and Latin American countries. She explained that her firm's primary service offerings will include (1) corporate business advisory services focused on contracts, permits, and licensing; (2) other legal consulting services with an emphasis on tax law; and (3) customs consulting and compliance services related to international trade activities. In our previous decision dismissing the Petitioner's appeal, incorporated here by reference, we concluded that the record did not establish the national importance of the Petitioner's proposed endeavor, as required by the first prong of the *Dhanasar* framework. *Matter of*

*Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). Because this conclusion was dispositive of the appeal, we reserved our opinion as to the remaining *Dhanasar* prongs.

On motion to reopen, the Petitioner submits new evidence[1]—a brief; an updated "Professional Plan"; a "Foreign Legal Consultant" application to the Florida Bar Association, including receipt, dated January 2024; a "declaration" indicating that the Petitioner is currently a "student of postgraduation course 'lato sensu' in International Immigration Law," expected to end in October 2024; legal and financial documents for the Petitioner's businesses registered in Florida and Brazil; and letters of recommendation with business plans from existing clients in the U.S. and Brazil. The Petitioner states that she has accepted the feedback from U.S. Citizenship & Immigration Services (USCIS) and has sought to improve, focus, and redirect her work "based on the suggestions and requirements brought by this immigration process for its approval." She further states that "these new facts . . . are measures taken to correct or supplement what [USCIS] requests and expects." The Petitioner appears to be referring to the language in our decision in which we noted that she did not offer a sufficient evidentiary basis for her assertion that the direct and indirect financial impacts of her proposed endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*.[2] *See id*. at 890.

On motion to reopen, the Petitioner does not state new facts, supported by documentary evidence, that establish proper cause to reopen the proceedings. *See* 8 C.F.R. § 103.5(a)(1)(i); (a)(2). Although the updated professional plan and letters from clients are newly submitted evidence, we conclude they do not establish that we erred as to our reason for dismissing the Petitioner's appeal—the lack of national importance of the proposed endeavor. *See Matter of Coelho*, 20 I&N Dec. at 473 (requiring that new evidence have the potential to change the outcome).

The Petitioner described her proposed endeavor in a professional plan and a business plan and updated these documents in her responses to a request for evidence (RFE), a notice of intent to deny (NOID), and now on motion. In the updated professional plan submitted on motion,[3] the Petitioner indicates that she has opened two companies to facilitate her work in the proposed endeavor, one in the U.S. and one in Brazil.[4] She states that she will "provide business legal consultancy services in general from the opening of companies, market studies, contracts, corporate issues and legal issues such as licenses required for operation [and will] provide advice on taxes and duties and immigration advice, that is, the needs to establish themselves in the country legally." She further indicates that her area of activity in the U.S. market—business, tax, and immigration law—represents a portion of the general amount of revenue and workers in the legal market referenced in our decision, which "clarif[ies] that in the correct proportions of [her] company's projection within [her] area of activity combined with

[1] While we may not discuss every document submitted, we have reviewed and considered each one.

[2] We noted that the Petitioner had not shown her endeavor has significant potential to employ U.S. workers or that the specific proposed endeavor would offer a region or its population a substantial economic benefit through employment levels, business activity, or related tax revenue; how the indirect economic benefits resulting from her firm's legal consulting activities would rise to the level of having regional or national economic impacts; or that her past achievements have resulted in a broad impact on the legal field or substantial positive economic impacts.

[3] While we may not discuss every detail stated in the updated professional plan and client documents, we have reviewed and considered them in their entirety.

[4] The Petitioner also has a second company in the U.S., which she indicates makes investments in the real estate market and "its share capital is made up exclusively of properties [she] own[s] and demonstrate[s her] solidity and financial capacity also in the American market."

financial and tax collection indirectly, plus the direct and indirect jobs that [her] clients will bring to the [U.S.]," her endeavor will rise to the national interest based on the economic impact and the generating of new jobs. She then references the letters and supporting business plans from clients to demonstrate those clients' direct employment generation and revenue creation. However, this is not probative, credible evidence that helps show that the proposed endeavor has the potential to broadly impact the legal services industry. For example, the Petitioner has not demonstrated, and the record does not establish, that the legal services she will provide to a niche market of Brazilian companies or investors will have direct and indirect financial impacts to reach the level of substantial positive economic effects. Her updated professional plan and the accompanying information from clients still does not provide sufficient evidence to demonstrate her endeavor has significant potential to employ U.S. workers or that the specific proposed endeavor would offer a region or its population a substantial economic benefit through employment levels, business activity, or related tax revenue. As such, we conclude that the Petitioner does not state new facts, supported by documentary evidence, that establish the national importance of the proposed endeavor, and therefore cause to reopen the proceedings.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion to reopen is dismissed.