U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29829049

Date: MAR. 6, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a lawyer, 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 Petitioner did not establish that a waiver of the required job offer, and thus a 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. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.[1] 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility for the underlying classification, 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 the statute nor the pertinent regulations define the term "national interest," *Matter of Dhanasar,* 26 I&N Dec. 884 (AAO 2016), provides the framework

[1] Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

for adjudicating national interest waiver petitions. *Dhanasar* states that 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. at 889.

II. ANALYSIS

A. EB-2 Classification

We agree with the Director's determination that the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree.[3] As such, the only remaining issue is whether the Petitioner's endeavor meets the *Dhanasar* framework for a discretionary national interest waiver.

B. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that 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. *Matter of Dhanasar*, 26 I&N Dec. at 889. The term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual.

Dhanasar's first prong focuses on the specific endeavor that the foreign national proposes to undertake and its "potential prospective impact." *Dhanasar*, 26 I&N Dec. at 889. As such, we will first identify the Petitioner's endeavor as shown in the record. Then, we will evaluate the Petitioner's evidence in support of the endeavor's substantial merit and national importance.

The Petitioner's proposed endeavor involves her working as a lawyer, providing legal services in family, labor, contract, environmental, animal rights, conservation, and other areas of civil law and

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

[3] The Petitioner submitted evidence of her completion of a bachelor of law degree from [redacted] in Brazil in 2007, and a law and business tax procedure post-graduate degree from [redacted] in 2012. In addition, she submitted experience letters demonstrating that she has more than five years of post-baccalaureate, progressive experience in the specialty. Finally, her credentials were independently evaluated and determined to be the equivalent of a U.S. juris doctor.

public policy. She describes the duties of her proposed endeavor as analyzing the probable outcomes of cases, using knowledge of legal precedents, including staying informed with updated information regarding animal rights and issues. She plans to take an American bar examination to obtain her license to practice. In late 2022, she obtained a job offer to work as a paralegal for [redacted], a law firm in [redacted] Florida. As such, we agree with the Director's conclusion that the proposed endeavor has substantial merit.

Because the endeavor has substantial merit, we turn to whether the proposed endeavor is of national importance, as contemplated by *Dhanasar*. The Director determined that "the [P]etitioner has not shown that working for and providing her expertise to [redacted] would undoubtedly benefit the United States through increased income, employment of U.S. workers, and contribution to the country's Gross Domestic Product (GDP) or reach the level of substantial positive economic effects contemplated by *Dhanasar*. *Id.* at 890." We agree with the Director's conclusion that her proposed endeavor is not of national importance, however the Director's focus on her paralegal position was too narrow in that the job offer she received from [redacted] is not her proposed endeavor. As such, in our de novo review, we will analyze the national importance of her proposed endeavor in this decision.

The Petitioner describes her endeavor and the impacts that will stem from it in several documents. Her professional plan outlines the legal areas where she will work as a lawyer and specifies that her work in animal welfare will focus on ensuring animals will be given the minimum standards of care and treatment. She also includes the basic tasks she will engage in as a lawyer including research and analysis, as well as using soft skills such as relating to people and empathy, to accomplish her proposed endeavor. She asserts her work will result in helping business achieve cultural diversity, increase productivity, generate revenue, higher payment of taxes and will generate jobs. She also asserts that her endeavor will lead to greater revenue, cultural diversity, and business growth.

The Petitioner highlights her experience as a lawyer in the private sector and advocating for public policy changes to promote animal rights to bolster her assertions regarding the national importance of her endeavor because her work has yielded results. She further asserts the national importance of her endeavor stems from her familiarity with the Latin American legal environment, which she explains will "help U.S. companies better navigate through the current political turmoil and economic difficulties in Latin America." She claims to be able to help arbitrate intellectual property disputes in foreign and domestic jurisdictions, which are a company's most valuable assets. She claims she will protect U.S. interests in litigation pending in foreign courts and can "closely instruct foreign counsel to represent U.S. businesses and individuals' interests in foreign courts." She claims her legal practice will encompass taxation, foreign trade, mergers and acquisitions, business expansions and more. She offers that she is also capable of managing foreign lawyers representing American individuals, businesses, and institutions in lawsuits pending in courts of "multiple jurisdictions." Many of her assertions relate to Brazil's size and economic power, which she argues makes her endeavor of national importance, because it will strengthen U.S.-Brazil trade relations and build strong ties between the two largest economies in the western hemisphere. She further contends that there is a talent shortage of lawyers and that because the need for lawyers is increasing, her endeavor is of national importance. She cites to statistics showing that in a post-COVID-19 environment, many firms are trying to attract legal talent, and that this problem is exacerbated in large rural expanses, which some experts have coined "legal deserts." She cites to evidence showing that 54 of the U.S.'s 3,100 counties have no

lawyers, and 182 have just one or two lawyers, and information from the American Bar Association which found that "legal deserts" exist and mostly affect people who are poor, aged, unemployed, and minorities, requiring these vulnerable populations to travel long distances to obtain important legal services. Finally, she asserts that her endeavor aligns with the U.S. government's economic initiatives and cites to the Department of Labor's measures of labor market activity to bolster her argument that there is a need for lawyers at all levels in the United States.

On appeal, she asserts her endeavor is of national importance because it has national "even global implications" within her field because her work as a lawyer will be "widely disseminated to other professionals in the legal market." In support of her contention, she reasserts that her experience working as a lawyer, general manager, associate lawyer, founding partner, and parliamentary advisor for a city council in Brazil bolsters the national importance of her endeavor because her track record of success has yielded broader implications. Specifically, she asserts that her past legal work has "led individuals and businesses to success and improvement in their results, generating revenue and creating more jobs due to efficiency and competitiveness, minimization of expenses and costs, and overall economic benefits." In her role as an advocate for public policy, the Petitioner asserts she effectively advanced the cause of animal rights, which has broader implications because the message can be "easily scaled up to a national level," and "global audience."

The Petitioner asserts that her proposed endeavor has the "significant potential to employ U.S. workers" and will have "substantial positive economic effects." She cites to and extrapolates from statistics on the growth of the global legal services market to note that North American is the largest region in the legal services market in 2021 and that the global legal services market is expected to grow from $713.12B in 2021 to $788.94B in 2022. She asserts that in the face of a growing need for legal practitioners, such as herself, there is a talent shortage and cites to a Thompson Reuters report from 2016, which found that 44% of law firms had turned down the opportunity to advise on cross-border deals due to the level of complexity involved. She asserts that globalization has created opportunities for professionals like her because companies need to adapt and change their legal structures to adjust to intrastate agreements. She cites evidence that "every 1 billion dollars in new exports of American goods supports more than 6,000 additional jobs in the United States," and explains that U.S. businesses seeking to expand overseas will benefit from her endeavor. Finally, she asserts the economic impact of her endeavor is nationally important because she will complete civil and contractual obligations, mediate conflicts, resolve disputes, facilitate the flow of funds and investments, encourage innovation through the protection of intellectual property rights, and advise entrepreneurs on viable business solutions.

She contends that her endeavor is a matter of national importance because it aligns with a significant U.S. government priority, which is the economy. She cites to the U.S. Chamber of Commerce to assert that in order for our economy to expand, we have to go outside our borders and sell products, produce, and services to the 95% of the world's population that lives outside the U.S. Other economic benefits she contends will flow from her endeavor include increased tax contributions due to job growth, capital accumulation in the United States, increased U.S. exports of goods to Brazil, and more direct investment in the U.S. through depository institutions, manufacturing, finance, and insurance.

The Petitioner also contends that her proposed endeavor will broadly enhance societal welfare or cultural enrichment because it will promote equality between people by providing legal services to

vulnerable populations. She also contends that her endeavor will advance her field more broadly because she will provide advice to other practitioners.

At the outset, we note that a shortage of workers within a given occupation does not render a proposed endeavor nationally important under the *Dhanasar* framework because the U.S. Department of Labor directly addresses these shortages through the labor certification process. And merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. In determining whether the proposed endeavor has 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." *Id.* Here, while we acknowledge that the legal profession is important, the Petitioner's assertions are not sufficiently detailed or probative to establish the national importance of her proposed endeavor. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

Regarding the opinion letter provided by a professor of law at [redacted] the writer does not provide more exacting details regarding why the proposed endeavor is nationally important beyond mere assertions. For example, the writer asserts that because doing business in Brazil requires an "intimate knowledge of the local environment and U.S. companies need to navigate a complex legal system and customs procedures," the Petitioner's "extensive knowledge in maneuvering the laws and regulations of business in Brazil is of substantial merit as it will help U.S. companies venture out into international markets, benefitting the nation's economy. . .." The professor also repeats the Petitioner's assertion that the proposed endeavor will "broadly enhance societal welfare or cultural enrichment" because she will use her experience in labor law to help small and medium-sized enterprises in the U.S. improve operations and achieve better productivity and profitability levels, therefore generating revenues within the country and creating employment opportunities. And asserts that the growth of these enterprises pays help U.S. citizens by increasing tax revenues and therefore, the funds available to spend on hospitals, schools, roads, and other essential services. The writer also gives an overview of the Petitioner's professional experience and asserts the United States will benefit from having a professional with her skills. The professor's overview of the Petitioner's proposed endeavor supports the determination that her endeavor is of substantial merit, however, the opinion does not establish the national importance of her endeavor and instead relies on the Petitioner's record of success as a lawyer to assert her work will be of national importance. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (standing for the proposition that we may, in our discretion, use opinion statements submitted by a petitioner as advisory but, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that opinion); *see also Matter of Chawathe*, 25 I&N Dec. at 375-76 (standing for the proposition that a petitioner must support their assertions with relevant, probative, and credible evidence). We further note that the Petitioner's background is the focus of *Dhanasar's* second prong, when we examine whether she is well-positioned to advance the proposed endeavor. *See Dhanasar*, 26 I&N Dec. at 890.

Similarly, the Petitioner's professional plan, resume, and recommendation letters address her past accomplishments in law and public policy, specifically highlighting her professional experience as a lawyer, general manager, associate lawyer, founding partner, and parliamentary advisor. The recommendation letters she provided support her assertions that she has made valuable contributions to her employers and clients. However, this evidence does not establish that her proposed endeavor

will have broader implications beyond her future employer(s) or client(s). For example, she asserts that when she was a parliamentary advisor for [redacted] City Council, she provided legal counseling, and drafted and researched public policy proposals to public administration entities. She also drafted legal opinions for the internal committees of the City Council, attended public forums aimed at resolving the most diverse types of problems, followed up on projects elaborated by the councilors, and accompanied solemn sessions for award presentations, in addition to holding meetings and public hearings with entities and agencies focused on animal protection. She asserts that these activities have broader implications beyond just the city of [redacted] and her home country of Brazil because her contributions led to individual and business successes as required under *Dhanasar's* first prong. *Id.* at 889. While the Petitioner's prior legal and public policy work may have been impactful, her evidence is insufficient to establish how her work as a lawyer in the United States would be of national importance. Her claims of future impact are numerous and far reaching, yet the specific endeavor lacks meaningful details. Also, when considering that the job offer letter she provided from [redacted] describes the duties of the paralegal position they offered her will be those "normally associated with the position in which you are being employed," we are not persuaded that the fruits of her proposed endeavor will have such far reaching implications as contemplated in *Dhanasar's* national importance analysis. *Id.* at 889-890.

Here, beyond general assertions, there is insufficient persuasive evidence to conclude the Petitioner's legal training or practice differs from or would improve upon what is already available and in use in the United States. The Petitioner's recommendation letters discuss her successful handling of past endeavors, such as her work to persuade public officials in [redacted] Brazil to grant a budget amendment for an organization that was protecting animals. Her work on this effort included preparing a legal opinion, which was described as "extremely well grounded[,]" and her work is credited with resulting "in the possibility of granting budget amendments to animal protection NGOs, something disruptive that made it possible to create agreements between the public power and NGOs, generating a long-term beneficial impact in this segment." Another writer described her work on animal protection as "exceptionally prepared" and her personal attributes as being "politeness, helpfulness, and facility to work in groups, generating an extremely productive and harmonious environment," as well as "great research skills and potential, with self-initiative and guidance." A third writer who describes himself as Director of the [redacted] in Brazil describes her role in the effort to pass animal protection through public policy initiatives as pivotal, and states that "[the Petitioner] is an above average professional in her field with great abilities in legislative and theoretical research in the field of Law, which also impacted the field of environment and animal protection." In as much as the writers view her in highly favorable terms, we again note these opinions are relevant to *Dhanasar's* second prong, when we evaluate whether the Petitioner is well-positioned to advance her endeavor, but do not establish the national importance of her endeavor.

We also explained in *Dhanasar* 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 . . . may well be understood to have national importance." *Id.* at 890. The Petitioner's professional plan projects that the ripple effects from her proposed endeavor will create jobs and wealth because she will assist U.S. companies in expanding their trade relationship with Brazil and assist foreign entities in investing in the United States. While we acknowledge that the United States' bilateral economic relationship with Brazil is important to our nation's economy, this speaks to the substantial merit of her proposed endeavor but does not establish that her work as a lawyer would lead to the

economic impact she describes. *Matter of Chawathe*, 25 I&N Dec. at 375-76. The Petitioner has not provided corroborating evidence to meaningfully understand how her endeavor will result in the economic benefits she describes. *Id.* For example, while she relies on statistics from reports that project job creation rates based on increasing U.S. exports, this data comes from macroeconomic studies, and does not directly address how her proposed endeavor would impact job creation. The Petitioner must support her assertions with relevant, probative, and credible evidence. *Id.*

We acknowledge the Petitioner's assertion that there are documented legal deserts in the United States where rural dwelling, low income, and other vulnerable Americans are lacking legal representation. We further acknowledge that her proposed endeavor to work as a lawyer in different areas of civil law including family law might address the legal needs of these Americans, which is admirable. This speaks to the substantial merit of her proposed endeavor, however it is insufficient, even when we consider that she would be advancing justice and equality, to show the national importance of her endeavor, because the effects of her legal work would be felt by her clients and perhaps their families, but would not sufficiently extend beyond the individuals she would be advising and representing to have the significant potential to broadly enhance societal welfare or the United States' cultural interests as contemplated by the Act. *See* section 203(b)(2) of the Act.

Here, the Petitioner has not established her proposed endeavor stands to sufficiently extend beyond her clients to impact her field more broadly at a level commensurate with national importance. Nor has she shown that the work she proposes to undertake offers original innovations that contribute to advancements or otherwise has broader implications for her field. Furthermore, the Petitioner has not demonstrated that her specific endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation directly attributable to her future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890.

As the Petitioner has not established the national importance of her proposed endeavor, we decline to reach and hereby reserve the Petitioner's arguments regarding her eligibility under the second and third prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting 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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, she has not established eligibility for a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.