U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40286907

Date: NOV. 20, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, who practiced law in Brazil, seeks classification as a member of the professions holding an advanced degree and as an alien of exceptional ability in the sciences, arts or business. *See* 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.

SCOPS denied the petition, concluding that the record did not establish that the Petitioner qualifies for the national interest waiver. The matter is now before us on appeal under 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 a national interest waiver, a petitioner must first show eligibility for the underlying EB-2 visa classification, as either an advanced degree professional or an alien of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, 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. *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 matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

[1] *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).

- The alien is well positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

II. ANALYSIS

The Petitioner earned her law degree in Brazil in 2004, and worked as an attorney in that country from 2009 until she entered the United States in December 2014 on a B-2 visitor's visa. She filed the Form I-140 petition over nine years later in April 2024. The Petitioner does not claim to have worked in the United States, either as an attorney or in any other capacity. The record indicates that the Beneficiary is the F-2 nonimmigrant spouse of an F-1 nonimmigrant student, and F-2 nonimmigrants are not authorized to accept employment in the United States. *See* 8 C.F.R. § 214.2(f)(15)(i).

The Petitioner claims eligibility for classification both as a member of the professions holding an advanced degree and as an alien of exceptional ability. We agree with SCOPS' determination that the Petitioner qualifies for classification as a member of the professions holding an advanced degree. Therefore, we need not consider the Petitioner's parallel claim of exceptional ability.

The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. SCOPS determined that the Petitioner had not established the national importance of her proposed endeavor, and had not satisfied the third prong of the *Dhanasar* national interest test.

A. The Proposed Endeavor

The Petitioner stated that her proposed endeavor is to establish a mediation service based in [redacted] Delaware, that will "provide a range of specialized mediation services tailored to the unique needs of divorcing couples and individuals navigating family disputes." The Petitioner stated that her mediation services would "provid[e] guidance and support to couples seeking separation," address "complexities of modern adolescence," and "collaborate[] with government agencies, religious organizations, and social institutions dedicated to family support."

The specific focus of the proposed endeavor is in question, owing to inconsistencies in the Petitioner's statement. The overall emphasis is on divorce and family disputes, but the Petitioner also cited information about ways that businesses rely on legal advice and mediation. The Petitioner also stated that her "main goal is to attract Brazilian clients and help them with social conflicts." After citing statistics about the Brazilian immigrant community in the United States, the Petitioner stated: "Legal assistance plays a crucial role in ensuring access to justice, insuring that women, children, and adolescents in situations of vulnerability have adequate representation within the legal system." The Petitioner did not adequately explain how this assertion relates to mediation of family disputes, as opposed to other legal issues facing those populations.

A business plan submitted with the petition repeats some of the above information and states: "While our primary focus will be serving the local community in Delaware, we also envision expanding our reach across the broader New England region. Furthermore . . . we plan to offer online consultations to cater to clients throughout the entirety of the United States." The business plan does not refer to any specific focus on serving Brazilian immigrant families.

The Petitioner's response to a request for evidence (RFE) included a revised business plan and a new statement in which the Petitioner made several changes to the proposed endeavor. We will discuss some of these changes further below, in the context of the *Dhanasar* national interest test. A petitioner must meet all eligibility requirements at the time of filing the petition. *See* 8 C.F.R. § 103.2(b)(1). A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1998). Post-filing alterations to the proposed endeavor cannot show that the petition was approvable when filed.

By signing Form I-140, the Petitioner certified under penalty of perjury that she had reviewed all the information submitted with the petition, and that the information was true and correct. But the business plan and other materials submitted with the petition contain several inconsistencies and anomalies.

The business plan mostly emphasizes mediation of divorces and family disputes, but also briefly discusses providing mediation "for corporations seeking efficient and cost-effective conflict resolution mechanisms." At times, the plan refers to the mediation service in the present tense, with specific references to the level of experience of staff whom the service has not yet hired.

The business plan also includes passages unrelated to mediation. Page 33 of the plan, describing the company's marketing team, repeatedly refers to the food service industry and "the culinary landscape." The "Capital Requirements" table on page 49 repeatedly states the company's name as "[redacted]" and indicates that the company will employ "car mechanics [and] Logistics Coordinators." Other passages in the plan refer to "music education" on page 42, and, on pages 47-48, "the tech community" and the company's "reputation as a trusted leader in the tech industry."

The Petitioner's own introductory letter offers inconsistent descriptions of the proposed endeavor. While a given passage might describe the proposed endeavor in some detail, in the aggregate those details do not add up to a coherent, consistent whole. As noted above, the statement is inconsistent as to whether the mediation service would focus on Brazilian immigrants or the broader population.

The Petitioner initially stated: "I envisage establishing a family law firm that would create direct employment opportunities for . . . paralegals." The two versions of the business plan include different staffing projections, neither of which lists paralegals among the job titles projected for the company's first five years of operations. If the "family law firm" is separate from the mediation service, then it is outside the proposed endeavor that forms the basis for the petition.

Another document in the record raises further questions about the origins of the Petitioner's evidence. The dates and employers shown in a copy of her Portuguese-language résumé does not match its purported English translation. The English translation does not show any experience as an attorney. Instead, it indicates that the Petitioner worked as a demand planning analyst for an ice cream company from 2009 to 2011; in the same capacity for a duty free shop from 2011 to 2012; a planning analyst for a mining company from 2012 to 2013; a corporate financial analyst for a pharmaceutical distributor from 2014 to 2015; and as a strategic planning trainee for a television network from 2015 to 2017.

The preponderance of the evidence shows that the Petitioner was employed as an attorney in Brazil. Therefore, the most likely explanation for the discrepant information on the résumé appears to be that the translator inadvertently supplied a translation of a résumé belonging to someone else, which the Petitioner submitted without reviewing it for accuracy. This circumstance does not necessarily suggest deliberate misrepresentation by the Petitioner, but it does raise the question of how reliable the Petitioner's other evidence is and how thoroughly the Petitioner reviewed that evidence before attesting to its accuracy. Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the petition. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).[2]

For the above reasons, we conclude that the Petitioner has not adequately and consistently described her proposed endeavor. Nevertheless, the record provides enough of a general idea of the proposed endeavor to allow for consideration under the *Dhanasar* national interest test, discussed below.

B. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the alien 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 and broader implications. *Matter of Dhanasar*, 26 I&N Dec. at 889. An 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 889-890.

SCOPS did not dispute the substantial merit of the proposed endeavor, but concluded that the Petitioner had not established its national importance. We agree, as explained below.

The Petitioner stated that her proposed endeavor has "the potential to significantly reduce the strain on public resources, particularly within healthcare and safety services" and "lower the prevalence of mental health disorders," while mitigating other negative effects of family conflicts. The Petitioner also asserted that her "extensive experience . . . can be imparted to new professionals." The burden is on the Petitioner to establish that these beneficial effects will have sufficient impact and implications to reach the level of national importance.

The Petitioner cited statistics about general subjects such as divorce and legal costs. But information about the field as a whole does not establish the impact of the Petitioner's specific proposed endeavor. Employment in a nationally important field, profession, or specialty does not necessarily confer national importance on the specific endeavor that a petitioner seeks to pursue.

[2] The record shows that, while the Petitioner claimed a Massachusetts address at the time of filing, all of the Petitioner's submissions in this proceeding were mailed by a law firm based in Washington, D.C. The record does not include Form G-28, Notice of Entry of Appearance by Attorney or Representative, but an individual associated with the Washington law firm prepared the Form I-290B, Notice of Appeal or Motion. Viewed in the context of the various anomalies in the Petitioner's evidence, this third-party involvement with the submitted materials adds to the question of whether the Petitioner fully reviewed those materials prior to their submission.

Furthermore, the Petitioner's assertion that her "main goal is to attract Brazilian clients" tends to restrict, rather than broaden, the scope of her intended clientele and the potential impact of the proposed endeavor. The Petitioner cited various demographic statistics to explain why she chose [redacted] Delaware as her service's base of operations, but she did not establish that [redacted] has a significant Brazilian population. A map showing "Top Destination States for Brazilian Immigrants in the United States, 2015-19" does not appear to highlight Delaware.

The Petitioner also stated that her "expertise in foreign law is of substantial merit and national importance for the United States," but she did not explain what role "foreign law" plays when mediating divorces and other family disputes in the United States.

The Petitioner submitted letters from individuals who have worked with her in various capacities. These individuals discussed the Petitioner's work in very general terms but did not explain how her proposed endeavor would have national importance. Two of the letters indicate that the Petitioner intends to work for a nongovernmental organization or other nonprofit entity. The business plan, however, describes the Petitioner's consulting service as a for-profit business rather than as a nonprofit organization.

In an expert opinion letter, a professor at [redacted] stated that the Petitioner's proposed endeavor "empowers families to navigate complex issues" while "reduc[ing] the strain on the already overburdened judicial system"; "will create job opportunities for a wide range of professionals"; "develops educational programs and workshops aimed at strengthening family bonds and promoting healthy communication," and "helps build stronger and more resilient neighborhoods."

The writer did not explain how the proposed endeavor would affect enough clients and families to have national rather than local importance. Instead, the writer stated that the Petitioner "will work . . . in an area of . . . national importance." The Petitioner, however, must establish the national importance of the endeavor itself, rather than the national importance of the issues that the endeavor seeks to address or the area in which the Petitioner intends to practice.

In *Dhanasar*, we acknowledged the petitioner's intent to teach university-level courses, but concluded that he had not shown that his teaching "activities . . . would impact the field of STEM education more broadly." *Matter of Dhanasar*, 26 I&N Dec. at 893. The same reasoning applies here. However meritorious the overall field of family dispute mediation may be, the Petitioner must show the broader implications of her specific proposed endeavor. Listing the benefits of family dispute mediation does not meet this burden.

In the RFE, SCOPS acknowledged the Petitioner's statement and business plan, and stated that the materials do not show how "the scope of the services she intends to provide or perform . . . extend beyond the immediate vicinity of the companies or entities utilizing them." SCOPS observed: "Individually tailored products or services help serve specific needs of an organization or client, but by nature, they do not represent broadly applicable measures that a wide range of organizations or clients can readily adopt." SCOPS added: "Merely working in an important field is insufficient to establish the national importance of the proposed endeavor."

In response, the Petitioner submitted a revised statement and a revised business plan, changing several elements of the proposed endeavor. The Petitioner also submitted published articles about legal mediation, stating that these materials "attest[] to the substantial intrinsic merit and national importance of [the] proposed endeavor." The articles do not discuss the Petitioner's specific proposed endeavor, and therefore they do not establish its national importance.

The Petitioner asserted that her proposed endeavor will "expand access to . . . conflict resolution services . . . across the United States" and "act as a transformative force for social stability, economic participation, and family preservation." The Petitioner stated that her proposed endeavor "will [also] offer educational initiatives and workforce training programs aimed at enhancing the professional standards in the mediation sector." The Petitioner also asserted that, by training new mediators, her proposed endeavor will reduce worker shortages while creating jobs. The burden remains on the Petitioner to establish that these effects will have sufficiently broad implications to show national importance. General assertions about these goals do not meet that burden. The Petitioner did not explain how her proposed endeavor, as originally described, would create jobs, reduce reliance on litigation, or produce the other claimed effects at levels that show national importance.

The Petitioner contended that her mediation service "is structured to deliver broad systemic change. Through public education efforts, community-based partnerships, and a hybrid delivery model that includes digital programming, [the endeavor's] services and methodologies will reach a national audience." The Petitioner stated that her endeavor's "innovations are poised to influence how courts, schools, nonprofits, and families worldwide approach conflict." The Petitioner offered no support for her general speculation that her proposed endeavor would produce these effects. The Petitioner claimed that her endeavor "will introduce a pioneering model of conflict resolution," but the record offers no concrete evidence that this model exists, and that its effectiveness has been tested.

As noted above, the Petitioner's description of the proposed endeavor in the RFE response has evolved in several ways from what she initially described. In her RFE response, the Petitioner stated that her company's "services will be delivered by . . . legal experts, psychologists, social workers, educators, and human development specialists." But staffing projections in the original version of the business plan do not show that her mediation service intended to employ psychologists, social workers, educators, or human development specialists during its first five years of operations.

Another example of how the proposed endeavor has changed concerns the geographic focus of the endeavor. The Petitioner initially stated that the mediation service "will be headquartered in Delaware, strategically chosen due to its notable increase in divorce rates. . . . While our primary focus will be serving the local community in Delaware, we also envision expanding our reach across the broader New England region." The original business plan includes this same passage, along with a map showing Delaware, New Jersey, [redacted], and Massachusetts. The Petitioner also stated that her mediation service "strategically selects its locations based on rigorous data analysis and market demand, with a focus on regions exhibiting high population density and a notable absence of mediation service businesses."

In response to the RFE, the Petitioner stated that her endeavor's "operations will begin in underserved areas such as [redacted] (DE), [redacted] (NY), and [redacted] (NJ)." The revised business plan no longer mentioned Massachusetts or New England, and no longer cited divorce rates as a rationale for

the choice of locations. Instead, the revised plan stated: [redacted] Delaware was selected as the Company's headquarters due to its combination of economic revitalization potential, strategic location, and low saturation in the mediation industry." The Petitioner and the business plan also observed that [redacted] all include Historically Underutilized Business Zones (HUBZones), designated by the Small Business Administration.

The Petitioner also submitted new letters commenting on the revised version of the proposed endeavor. As stated above, material changes to the proposed endeavor do not show that the petition was approvable at the time of filing. As such, letters relying on those material changes cannot establish prior eligibility.

Even then, the changes to the proposed endeavor include a number of assumptions about the impact and influence that the revised endeavor will have in the United States, such as the assertion that others will adopt the Petitioner's mediation model, and that her client base will grow large enough to have a discernible impact on civil court backlogs. The record does not sufficiently support these assumptions.

In denying the petition, SCOPS concluded that the Petitioner had not established "the broader implications of the proposed endeavor or explain[ed] how the proposed endeavor implicates matters rising to a level of national importance." SCOPS observed that background information about the importance of a given field does not establish the importance of a specific endeavor within that field.

SCOPS repeated its prior observation that "[i]ndividually tailored services" are not "broadly applicable." SCOPS also concluded that the Petitioner had not adequately substantiated her claims that her proposed endeavor would have a wider impact both economically and within her profession.

SCOPS acknowledged the Petitioner's discussion of HUBZones, but noted that HUBZone designations relate to the "awarding . . . of federal contract dollars." The Petitioner did not persuasively explain why locating her business in or near a HUBZone adds to the national importance of the proposed endeavor.

On appeal, the Petitioner submits new letters from a prospective client and a prospective investor. The Petitioner does not explain how these letters establish the national importance of the proposed endeavor. The Petitioner states that the prospective client's letter cites "the value of integrating mediation and conflict facilitation services," but this speaks to the general value of mediation rather than the national importance of the Petitioner's proposed endeavor. SCOPS acknowledged the value of the Petitioner's potential services to individual clients.

We note that the prospective client is an entrepreneur "in the field of Technology, Management Software and Data & Analytics," whereas the Petitioner's proposed endeavor, as originally described, heavily focused on mediation of divorces and other family disputes. The letter is therefore not material to the proceedings.

The Petitioner repeats arguments from her response to the RFE and cites the revised version of the business plan, which, as we previously noted, deviates significantly from the earlier version of the plan. The Petitioner's arguments rely heavily on the overall importance of "mediation as a tool for conflict resolution." These general assertions speak to the undisputed substantial merit of the proposed endeavor, but they do not show the national importance of the Petitioner's specific endeavor.

The Petitioner asserts that her mediation service "is inherently designed for national scalability and replicability." The Petitioner must establish eligibility by a preponderance of the evidence. Speculation about the potential growth and influence of the Petitioner's mediation service lacks sufficient evidentiary support to meet the Petitioner's burden of proof in that way. The Petitioner has not submitted evidence of widespread interest in adoption or licensing of the Petitioner's mediation model. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual.

The Petitioner's claims regarding national importance rely heavily on changes that the Petitioner made to the proposed endeavor following the issuance of the RFE. That proposed endeavor involves a specific business project, but the Petitioner's descriptions of what that business would entail have been sometimes vague, inconsistent, and changing, and significant anomalies in the original business plan raise questions about the origin and reliability of that document. The Petitioner has not persuasively established that her proposed endeavor would have significant implications beyond the clients who would receive mediation services.

For the above reasons, we affirm SCOPS' conclusion that the Petitioner has not established the national importance of the proposed endeavor.

C. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the alien. To determine whether an alien is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Matter of Dhanasar*, 26 I&N Dec. at 890.

SCOPS concluded, without detailed discussion, that the Petitioner has established that she is well positioned to advance the proposed endeavor. We need not explore this issue in detail, because the above discussion of national importance is sufficient to determine the outcome of the appeal. But we note that the Petitioner has not shown that she has any past experience establishing and running a mediation service with offices in multiple locations. The Petitioner has not established that experience as an attorney is sufficient preparation for such an endeavor. Founding and running a business with multiple subordinate employees in a variety of occupations and professions would appear to involve a somewhat different skill set than the practice of law.

Furthermore, the Petitioner has provided only broad details about the mediation model she seeks to employ in the United States. The record does not readily establish that the model is already fully developed and ready to implement. This is particularly significant because the initial submission did not indicate that the Petitioner's mediation service would involve a new mediation model; that detail was introduced in response to the RFE.

We also note that, while the Petitioner stresses her law degree and more than five years of experience as an attorney, the record does not show that the Petitioner has been employed as an attorney, mediator, or in any other capacity since 2014, when she entered the United States in a nonimmigrant

classification that does not permit her to accept employment.[3] While the Petitioner holds a law degree from Brazil, the record does not show that the Petitioner has studied U.S. law. In her introductory statement, she acknowledged that she is "not . . . yet legally authorized to practice law in the United States." Therefore, the record does not unequivocally support SCOPS' summary conclusion that the Petitioner is well positioned to advance her proposed endeavor.

In light of the above conclusions, the Petitioner has not met her burden of proof to show that she fully satisfies the first and second prongs of the *Dhanasar* national interest test. Detailed discussion of the remaining prong cannot change the outcome of this appeal. Because the Petitioner has not otherwise established eligibility for the classification sought, we need not reach, and therefore reserve, the remaining, third *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

We agree with SCOPS' conclusion that the Petitioner has not established the national importance of the proposed endeavor. Therefore, the Petitioner has not shown eligibility for the national interest waiver, and we will dismiss the appeal as a matter of discretion.

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 who are 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.

[3] An attorney in Brazil asserted that "even after [the Petitioner] moved to the USA, she continued to offer legal support in some cases that were not resolved before her departure," but this activity appears to have been minimal and incidental.