



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

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

In Re: 25673925

Date: MAR. 1, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an event planner, seeks classification as a member of the professions holding an advanced degree. 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.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as an advanced degree professional, but that the record did not establish that a waiver of the classification's job offer requirement 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.

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 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 USCIS may, as a matter of discretion,¹ 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.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest. The Director found that the Petitioner's proposed endeavor has substantial merit and that she is well-positioned to advance her endeavor. However, he found that she had not established her endeavor's national importance nor that, on balance, waiving the job offer requirement would benefit the United States.

The Petitioner proposes to establish and operate an event planning company in the United States that will offer planning services and publish a marketing magazine with advertisements for related vendor services such as catering. In his discussion regarding whether the Petitioner established national importance, the Director described the relevant question as "whether the work the petitioner proposes to undertake would offer original innovations that will contribute to the field more broadly." He then stated that, "[c]onsequently, the petitioner's evidence needed to document how her specific endeavor stood to have substantial positive economic effects that would reach beyond her clients to benefit the nation." The Director then discussed the Petitioner's business plan and its projected number of employees. He finished his analysis of national importance by concluding that the Petitioner did not provide "sufficient evidence addressing how [her] future work would reach the level of substantial positive economic effects," and that as such she had not established national importance.

On appeal, the Petitioner claims that the Director misapplied the law here by focusing solely on the potential economic effects of her endeavor, rather than conducting a comprehensive analysis of the ways in which an endeavor may be nationally important. The Petitioner further asserts that the Director did not analyze or discuss the evidence in the record that the proposed endeavor meets the national importance requirement through its potential to provide cultural enrichment, broadly enhance societal welfare, and have impact on matters that government entities have described as having national importance. The Petitioner asserts that, as a result, she has been denied a meaningful opportunity to appeal.

In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an endeavor that is regionally focused may have national importance, such as an endeavor that has significant potential to

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).

employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

We acknowledge that, other than the business plan, the Director's decision did not discuss the evidence in the record as it relates to establishing national importance. Further, we understand how the Director's decision could be read to limit the determination of an endeavor's national importance to its ability to provide substantial positive economic effects. While the Director's discussion could have been more comprehensive as to the evidence in the record and the ways in which national importance may be established, we agree with his conclusion that the Petitioner has not demonstrated national importance. Moreover, we conduct a de novo review and have considered the evidence in the record in full.²

First, the Petitioner claims on appeal that the evidence in the record regarding her lecturing at various events helps establish the potential broad impact of her endeavor. She further points to a letter from the founder of an event planning academy, who states that the Petitioner has worked as one of the academy's online trainers and will continue to be employed in the United States as a trainer. We conclude that this evidence does not establish the national importance of the Petitioner's proposed endeavor. The Petitioner states that her endeavor is to establish and operate an event planning company in the United States, not to be a speaker or lecturer in the event planning industry. Speaking at industry seminars or participating in training programs may be an incidental part of operating a business in the event planning sector. But the record does not establish how frequent those speaking engagements would be, nor quantify the number of individuals she would reach, nor describe a specific method or curriculum that the Petitioner will disseminate. As such, the evidence is insufficient to establish the potential for broad impact in the field through speaking engagements.

The Petitioner further points to the evidence that her work has been recognized in the media as evidence of the national importance of her endeavor. The record does include evidence of media coverage that the Petitioner and her work have received, for example, a profile of her in a Bolivian publication. The evidence of media coverage helps establish that she is well-respected in the event planning field, but it does not establish that her proposed endeavor of operating an event planning company will have national or global implications within that field. *Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we gave as examples of nationally important endeavors those that might result in improved manufacturing processes or medical advances. *Id.* The evidence of media coverage does not establish that her event planning services have the potential to result in the type of broad impact that an original mechanical process or a medical advancement would in their fields.

The Petitioner also states on appeal that the evidence related to her memberships in professional associations and her letters of support help establish that her "initiatives and unique approaches have impacted the field more broadly." The record does contain work experience letters that discuss her

² Much of the evidence the Petitioner discusses on appeal was initially submitted as evidence that she is an individual of exceptional ability. It is only on appeal that the Petitioner seeks to characterize this evidence as establishing that her proposed endeavor has national importance. Having found that the Petitioner qualified for the EB-2 classification as an advanced degree professional, the Director did not make a finding as to whether she qualifies as an individual of exceptional ability nor discuss the evidence submitted in support of that claim. Nevertheless, we have fully reviewed the evidence in the record, including the evidence initially characterized as supporting exceptional ability. While we do not discuss each piece of evidence, we have reviewed and considered each one.

professional achievements and letters of support from others in the event planning field describing her accomplishments. However, these letters do not describe the Petitioner's proposed endeavor or help establish its national importance. As to her memberships in professional organizations, the record contains evidence that she is a member of the [REDACTED] and has been selected as the association's "Country Manager" for Bolivia, although the record does not establish what that designation means. There is also evidence in the record that she is an honorary member and on the advisory council of the [REDACTED] which describes itself as the largest and most distinguished international network of experts in event design and production. The Petitioner claims on appeal that this evidence establishes that she has been a mentor and that, as a result, her work will be spread to others in the field. Like the speaking engagements discussed above, the Petitioner does not describe her proposed endeavor as mentoring others through participation in industry associations. Moreover, the record does not establish the number of individuals she would reach nor the impact her mentorship would have. She states the conclusion that this activity will have a broad impact, but she has not provided sufficient evidence to support this claim.

The Petitioner also states that the business plan establishes the potential prospective impact of her endeavor. According to the business plan, one of the contributions of her endeavor will be promoting culture. The business plan states that through organizing social and corporate events, the company will "promote Latin culture" with "artistic, religious, and musical" events and notes that culture "provides important social and economic benefits." While we recognize the substantial merit of cultural enrichment, we conclude the business plan does not sufficiently demonstrate that the cultural impact will extend beyond the attendees at the Petitioner's events to benefit society at a level commensurate with national importance. The business plan also states that the endeavor will have significant economic impacts through job creation and through its use of vendor services in producing events. However, the plan does not quantify the potential economic effect for its use of vendor services. Additionally, the business plan projects a total of 10 employees by the end of year five and estimates another 20 jobs in indirect employment. We agree with the Director's determination that the creation of 10 jobs within five years is not sufficient to show a substantial positive economic effect commensurate with national importance.

Finally, the expert opinion letter from [REDACTED], does not articulate how the proposed endeavor will have national importance. Although [REDACTED] concludes that the endeavor has national importance, he does not persuasively state the basis for this conclusion. For example, [REDACTED] cites to a study that quantified the size of the meetings and events industry overall and its significance to the U.S. economy. He then concludes that this establishes that "the proposed endeavor has significant potential to employ U.S. workers and has other substantial positive economic effects." However, the overall size of the meeting and event planning industry does not by itself establish that the Petitioner's individual endeavor will result in substantial economic effects. [REDACTED] also restates the conclusion of the business plan that the endeavor will have a significant cultural impact by planning events that will "promote Latin culture." As discussed above, while this reflects the merit of the endeavor, it does not demonstrate national importance. Finally, he asserts that the endeavor "will significantly contribute to helping U.S. small businesses generate revenue through promotions, advertising campaigns, and marketing research consulting services." However, neither the Petitioner's business plan nor the expert opinion letter quantifies what this prospective economic contribution would be. Moreover, the proposed endeavor is not described elsewhere in the record as offering market research consulting services.

As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, the expert opinion letter is of little probative value as it overstates the evidence in the record and conflates the importance of the event planning industry overall with the national importance of the Petitioner's specific endeavor.

Although the record reflects the Petitioner's experience in the field and her intention to provide valuable services to her clients, the Petitioner has not offered sufficient information or evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not extend beyond his students to impact his field more broadly. *Matter of Dhanasar*, 26 I&N Dec. at 893. Here, we conclude the Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her company and its clientele to impact the event planning industry or the U.S. economy at a level commensurate with national importance.

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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 the applicant is otherwise ineligible).

III. CONCLUSION

Because the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.