U.S. Citizenship and Immigration Services

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

In Re: 29808489

Date: JAN. 25, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner is a "certified flight instructor curriculum developer" who 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 Nebraska Service Center determined that despite qualifying for the underlying EB-2 visa classification as an individual holding an advanced degree,[1] the Petitioner did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. Applying the three-prong analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), the Director concluded that although the Petitioner established that her endeavor has substantial merit, she did not establish that the endeavor has national importance. 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.

In a comprehensive analysis, the Director determined that the Petitioner's endeavor does not possess characteristics that are indicative of national importance, such as offering a benefit that extends beyond the Petitioner's future employer(s) or students at a level that is commensurate with national importance, having significant potential to employ U.S. workers, or posing other substantial positive economic effects. The Director also disagreed with the Petitioner's assertion that her endeavor as a flight simulator instructor and curriculum developer stands to impact or significantly reduce the claimed national pilot shortage. Lastly, despite recognizing that the proposed endeavor is in the aviation field and is among the STEM (Science, Technology, Engineering, or Mathematics)

[1] The Petitioner provided a degree certificate and corresponding transcripts showing that she earned a four-year degree as Bachelor of Technology in 2008 from the [redacted]. The record also contains evidence showing that after attaining the bachelor's degree, the Petitioner gained at least five years of progressive experience in her specialty. *See* 8 C.F.R. § 204.5(k)(2).

professions, the Director saw no evidence that the Petitioner's pursuit of her endeavor would involve advancing STEM technologies and research or that the Petitioner's employment as a certified flight simulator instructor and curriculum developer would more broadly affect the field of aviation on a national level.

On appeal, the Petitioner points to recommendation letters from colleagues and peers who discussed her skills, knowledge, and experience. However, these elements are more relevant to the Petitioner's ability to advance her endeavor, a concern that pertains to the second prong of the *Dhanasar* framework and does not directly address or appear entirely relevant to a determination of the endeavor's national importance. *See generally* 6 USCIS Policy Manual F.5(D)(4), http://www.uscis.gov/policy-manual.

The Petitioner also highlights her endeavor's aims to improve the flight instruction process by leveraging her knowledge of coding and software; she contends that the Director failed to consider the "transformational impacts" of her endeavor, which is to create "a fundamentally new teaching paradigm" that will modernize pilot training. While we recognize the Petitioner's goal to impact the aviation industry by improving the flight training process, the record does not offer sufficient evidence explaining how the Petitioner plans to implement her "new teaching paradigm" to impact flight training industry wide. It is therefore unclear how the proposed endeavor's impact will extend beyond the specific institutions where the Petitioner plans to teach. Likewise, it is unclear how the Petitioner's specific endeavor will address the issue of pilot shortages. The Petitioner has not established that applying her curriculum and practical methods at specific teaching institutions will extend beyond the students at those institutions and have the broader impact that is contemplated in *Dhanasar.*

Accordingly, we adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

**ORDER:** The appeal is dismissed.