U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34106481

Date: OCT. 31, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, research economist and professor, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 denied the petition, concluding the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree, but had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.[1] 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.

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate 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 the 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 U.S. Citizenship

[1] An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. 8 C.F.R. § 204.5(k)(2).

and Immigration Services (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.

The Petitioner's proposed endeavor is "being a research economist and professor" and "working for government agencies." She stated that she will use her "field training and experience to transfer that to my future students."

The Director determined that the Petitioner's proposed endeavor was of substantial merit, and we agree. However, merely working in an important field or profession is insufficient to establish the national importance of the proposed endeavor. *Id.* at 889. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* The relevant question to ask about a proposed endeavor's national importance is not if the field, industry, or profession in which the individual will work is nationally important; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* Thus, while we acknowledge that the field of economics is important, this fact is insufficient to establish the national importance of her proposed endeavor.

The Director concluded the Petitioner did not establish that her proposed endeavor has national importance. In support of its national importance, the Petitioner cites to an executive order on equity to show that her proposed endeavor aligns with national initiatives. On appeal, the Petitioner asserts "her work is of substantial merit and national interest to the United States through public policy and advocacy for low-income communities, which has a direct impact on low-income children in the United States." The Petitioner highlights her research paper on [redacted] and her ongoing research on [redacted] study as representative of her endeavor's national importance.

The Petitioner asserts her studies "promote social equity through making sure that low-income individuals have access to opportunities regardless of their socioeconomic and demographic profiles and will aim to reduce disparities in outcomes such as access to economic opportunities across the United States." The Petitioner, however, has not established with sufficient evidence that her proposed endeavor rises to a level of national importance. The evidence does not adequately demonstrate how the Petitioner's research paper on [redacted] exerted national, or even global, impact to her field or implicated matters more broadly in a nationally important manner.

[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).

We reviewed the Petitioner's letters of recommendation where the authors praise the Petitioner's abilities in the field of economics and her personal attributes, indicating that she would be an asserted asset to the workplace. However, the letters of recommendation do not offer persuasive detail concerning the impact of her proposed endeavor, described by her research project and publications, and how it would extend beyond her employer. As such, the letters are not probative in demonstrating the Petitioner's eligibility under the first prong of *Dhanasar*.

On appeal, the Petitioner provides three additional support letters. Two of the letters discuss the Petitioner's research on [redacted] Specifically, one of the letters states that the Petitioner's analysis "was highly relevant for [their] policy planning and implementation [of] professionals" and the other letter states that the Petitioner's "research provides innovative data results for advocacy groups and policy leaders to efficiently and effectively allocate funds to the program targeting the most vulnerable communities." The third letter is from the Petitioner's employer, and it discusses the Petitioner's duties and projects. Although we acknowledge that the proposed endeavor could have a positive impact on her career in economics and to her employer, she has not persuasively explained, and the record (primarily including her statements and support letters) does not demonstrate how her proposed work would have the national or global implications for the metropolitan cities or broader implications as she claims, beyond her employer.

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address her eligibility under the remaining prongs, and we hereby reserve them. *See INS v. Bagamasbad,* 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. The burden of proof is on the Petitioner to establish that she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that she has not established eligibility for a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.