U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42218291

Date: APR. 9, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a sales manager, 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).

Service Center Operations (SCOPS) denied the petition, concluding the record did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal pursuant to 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

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. *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 and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that: (1) the proposed endeavor has both substantial merit and national importance; (2) the individual is well-positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer requirement would benefit the United States. *Id.*

[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).

In evaluating the Petitioner's request for a national interest waiver, SCOPS concluded that while the Petitioner had established the substantial merit of his proposed endeavor and that he is well positioned to advance it, he had not demonstrated his proposed endeavor's national importance or that, on balance, it would be beneficial to the United States to waive the job offer requirements. On appeal, the Petitioner contends that SCOPS did not properly consider all the evidence or explain the rationale underlying their determination. We agree.

An officer must fully explain the reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(1)(i). This explanation should be sufficient to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See, e.g.*, *Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal).

Here, the decision lacks sufficient analysis and discussion of the evidence. For example, in determining the Petitioner did not satisfy the national importance requirement of *Dhanasar's* first prong, SCOPS provided large block quotations from the Petitioner's response to SCOPS' Request for Evidence (RFE), personal statement, and professional plan. However, the decision provided no actual analysis of the evidence or specific explanation as to how SCOPS reached their determination.

SCOPS provided similarly conclusory determinations with respect to *Dhanasar's* third prong. For instance, the decision concluded, without a specific discussion of documents in the record, that the Petitioner "has not shown an urgent interest in her [sic] own contributions" and "has not demonstrated that she [sic] presents benefits to the United States through his proposed endeavor that outweigh those inherent in the labor certification process."

Again, an officer must explain the specific reasons for denying a petition. *See* 8 C.F.R. § 103.3(a)(1)(i). While the evidence of record may ultimately be insufficient to demonstrate the Petitioner's eligibility for the requested national interest waiver, SCOPS did not adequately address the evidence submitted with the initial filing and in response to the RFE and, therefore, did not sufficiently explain the reasons for denial.

Accordingly, we withdraw SCOPS' decision and remand this matter for further consideration and entry of a new decision. On remand, SCOPS should review the entire record and determine whether he has established eligibility under each of the three *Dhanasar* prongs. If SCOPS concludes that the Petitioner's evidence does not meet a specific eligibility requirement, the decision should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility. SCOPS may request any additional evidence considered pertinent to the determination prior to issuing a new decision. In remanding, we express no opinion as to the ultimate resolution of this case.

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.