U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37805238

Date: APRIL 15, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a journalist, 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).

Service Center Operations (SCOPS) denied the petition, concluding that 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 dismiss the appeal.

I. LAW

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:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

In his letter submitted in response to SCOPS' request for evidence (RFE), the Petitioner stated his intent to advance democratic values and counter disinformation through his work as a journalist and by establishing an institute focused on United States – European relations. The Petitioner explained his institute would focus on "strengthening democratic resilience, countering disinformation, supporting international security" and would "serve as a forum for experts from both sides of the Atlantic to share insights and develop strategies for global challenges."

The Director determined the Petitioner qualified for EB-2 classification as an advanced degree professional because he submitted evidence of his foreign equivalent of a U.S. master's degree in pedagogy. We agree. The only issue on appeal is whether a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

A. Substantial Merit and National Importance and Well Positioned to Advance the Proposed Endeavor

As discussed below, the Petitioner has not established that he meets the third prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of his eligibility under the first and second prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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 an applicant is otherwise ineligible).

B. Whether on Balance a Waiver is Beneficial

Even if the Petitioner established he met the first and second *Dhanasar* prongs, the record does not show that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) considered must, taken together, establish that on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *Id.* at 890-91.

The Director determined the Petitioner did not meet this prong. On appeal, the Petitioner asserts that even if other qualified U.S. workers were available, the United States would still benefit from his contributions. The Petitioner asserts that his support letters, including letters from a former Ambassador and the President of the Polish Senate, show his institute "will provide support to the US and its interests in Eastern Europe that cannot be provided by someone without such extensive

support." The Petitioner initially submitted support letters from individuals who attest to his significant skills, experience and value as a journalist. R-H-[2], D-F-, T-G-, K-N-, D-F-, P-K-, and S-M- all praise the Petitioner's work as a journalist in countering disinformation and attest to his accomplishments. In response to the RFE, the Petitioner submitted additional support letters from individuals who discussed the value of his proposed institute, the ability of the Petitioner to establish the institute, and explained how the institute would support U.S. interests. These letters show that even if other qualified U.S. workers were available, the United States would still benefit from the Petitioner's contributions.

The Petitioner has not, however, demonstrated that any of the other factors are present in his case. On appeal, the Petitioner does not address any of the remaining factors. The Petitioner has not shown that it would be impractical either for him to secure a job offer or to obtain a labor certification. To the contrary, the Petitioner's support letters indicate that several individuals and organizations value his work and have confidence in his ability to succeed. The Petitioner also has not demonstrated that the national interest in his contributions is sufficiently urgent to warrant forgoing the labor certification process. The Petitioner's support letters attest to his skills and achievements as a journalist and express confidence in his ability to found an institute in the United States, but they do not indicate that any need for his journalism and institute is so urgent it would warrant forgoing the labor certification process. Consequently, the Petitioner has not established that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

III. CONCLUSION

The Petitioner does not meet the third prong of the *Dhanasar* analytical framework. Consequently, he has not demonstrated that he is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.

[2] We use initials to protect the privacy of the referenced individuals.