U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37848114

Date: APRIL 17, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a research professor, 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 response to SCOPS' request for evidence (RFE), the Petitioner submitted a statement describing his proposed endeavor as exploring and advancing "cutting-edge technologies in wireless communications and networking to guarantee top-tier communication quality across diverse applications." The Petitioner states his research will focus on "developing AI-driven techniques and other advanced algorithms & schemes within the realm of mobile wireless communications, designing innovative protocols and network architectures, as well as developing the requisite hardware/software/prototype to facilitate the implementation and commercialization of the proposed emerging technologies." The Petitioner specifies his plan to continue his research in "Vehicle-to-Everything (V2X) communications within the context of 5G and 6G networks," including "AI-enabled O-RAN network research for next-generation mobile communications" and "V2X communications for intelligent transportation systems and autonomous driving." The Petitioner explains he will pursue his proposed endeavor as an Assistant Research Professor at [redacted]

SCOPS determined the Petitioner qualified for EB-2 classification as an advanced degree professional because he submitted evidence of his Doctor of Philosophy degree in electrical engineering. 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

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90.

SCOPS determined the Petitioner did not establish that his proposed endeavor has national or global implications within his field and that the potential prospective impact of his proposed endeavor was commensurate with national importance. On appeal, the Petitioner asserts SCOPS overlooked or diminished evidence of the national importance of his proposed endeavor.

The Petitioner claims he submitted reports and articles which show his proposed endeavor aligns with "the communication and economic priorities of the United States, given recent $40 million investment in the development and implementation of next-generation wireless communication technologies and

the wireless industry's contribution of $825 billion to the national GDP and employment of approximately 4.5 million people in the United States." In support of this claim, the Petitioner cites articles on mobile telephones, the Biden Administration's investment in research to develop advanced communications technologies, the U.S. wireless industry contributes $825 billion to America's economy annually, U.S. national strategy for 5G and future wireless innovation, accelerating 5G in the United States, NSF leads federal effort to boost advanced wireless research, the wireless industry, NextG communications research and development gaps, and the U.S. Department of Transportation's Vehicle-To-Everything (V2X) Communications Summit: preparing for V2X deployment. These articles attest to national interest in the Petitioner's specific proposed endeavor as they discuss the importance of wireless communications including V2X communications and AI-enabled O-RAN network research.

The Petitioner also asserts the National Science Foundation's (NSF's) funding of his research demonstrates its national importance because NSF is the federal government's primary agency for conducting scientific research. The Petitioner submitted evidence that his research published in two articles entitled "FAQ: [redacted] was funded in part by grants from NSF. The Petitioner is the first author of the first article and the second author of the second article. The Petitioner also submitted evidence that the NSF is an independent federal agency that supports science and engineering in all 50 states and U.S. territories primarily through grant funding. This evidence indicates that research related to the Petitioner's proposed endeavor has received support from a federal agency in a manner indicative of national importance.

The Petitioner further claims that the implementation of his research findings by other research teams demonstrates the national importance of his proposed endeavor. The Petitioner submitted evidence that he has co-authored articles that have been published in scientific journals and cited by other researchers in the United States and other countries. In addition to submitting articles citing his work, the Petitioner submitted letters from other scientists describing how his research has been relied upon by other scholars. K-S-[2] explains how the Petitioner's findings have been used by three other research teams in Malaysia, Ireland, China and Hong Kong and states the techniques the Petitioner has developed informs "policymakers and standardization bodies in developing guidelines and standards for future wireless communications and networks." P-J- describes how the Petitioner's work has been relied upon by three other research teams and explains how the Petitioner's work directly contributes to advancements in 5G mm Wave networks and V2X communications in the United States. The record thus shows the Petitioner's proposed endeavor has national and global implications in his field.

In sum, the record shows the Petitioner's proposed endeavor implicates matters of national interest, has received funding from a federal agency, and has national and global implications in his field. On appeal, the Petitioner has thus established the national importance of his proposed endeavor and demonstrated that he meets the first *Dhanasar* prong.

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

B. Well Positioned to Advance the Proposed Endeavor

The second *Dhanasar* prong shifts the focus from the proposed endeavor to the individual. To determine whether individuals are well positioned to advance their proposed endeavors, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890. SCOPS determined the Petitioner did not establish that he is well positioned to advance his proposed endeavor under these factors. On appeal, the Petitioner asserts SCOPS erred and conducted an incomplete analysis of the relevant evidence.

The Petitioner claims the preponderance of the evidence shows he has the education, skills and knowledge required to pursue his proposed endeavor. We agree. The record documents the Petitioner's Master of Science degree in microelectronics and solid state electronics and Doctor of Philosophy degree in electrical engineering. K-S- and P-J- attest to the Petitioner's skills and knowledge in his field. This evidence demonstrates the Petitioner has the education, skills and knowledge needed to advance his proposed endeavor.

The Petitioner's publication and citation record and support letters show his record of success in efforts related to his proposed endeavor, progress he has made towards achieving his proposed endeavor and the interest of other researchers in his proposed endeavor. The record shows that at the time of filing the Petitioner had co-authored 11 peer-reviewed journal articles, including seven as the first author, which had been cited 175 times, the majority of which were by independent researchers. As previously discussed, K-S- and P-J- explained in detail how the Petitioner's work has been applied by other research teams. This evidence establishes the Petitioner's record of success in related efforts, his progress towards achieving his proposed endeavor, and the interest of other researchers in his proposed endeavor.

In his statement submitted in response to the RFE, the Petitioner provides a detailed plan for his future activities. The Petitioner describes three specific research projects and the steps he will take to complete them. The Petitioner also states he will pursue his proposed endeavor in his current position as an Assistant Research Professor at [redacted]

The record establishes the Petitioner's education, skills, knowledge and record of success in related or similar efforts; his plan for future activities; his progress towards achieving the proposed endeavor; and the interest of other researchers in his proposed endeavor. On appeal, the Petitioner has thus demonstrated that he is well positioned to advance his proposed endeavor.

C. Whether on Balance a Waiver is Beneficial

The third *Dhanasar* prong requires a petitioner to demonstrate 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. SCOPS determined the Petitioner did not establish he met the third *Dhanasar* prong under these factors. On appeal, the Petitioner asserts SCOPS erred and the totality of the evidence shows it would be beneficial to the United States to waive the job offer and labor certification requirements. The record does not support this claim.

The Petitioner's education and proposed endeavor in a science, technology, engineering, and math (STEM) field merit special consideration under United States Citizenship and Immigration Services (USCIS) Policy. USCIS recognizes the importance of progress in STEM fields and the essential role that individuals with advanced STEM degrees have in fostering such progress. 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual/. Accordingly, strong positive factors to consider when assessing the third *Dhanasar* prong include possession of an advanced STEM degree, engagement in work furthering a critical and emerging technology, and being well positioned to advance the proposed STEM endeavor of national importance. *Id.* All of these factors are present in the Petitioner's case.

However, the Petitioner has not established his eligibility under the factors identified in *Dhanasar*. On appeal, the Petitioner does not assert that it would be impractical for him to secure a job offer or to obtain a labor certification. In fact, the record shows the Petitioner was offered his current job as an Assistant Research Professor at [redacted].

The record also does not establish that the national interest in the Petitioner's contributions is sufficiently urgent to warrant forgoing the labor certification process. Although the reports, articles, and NSF funding of the Petitioner's research show the national importance of the Petitioner's proposed endeavor, they do not indicate that the national interest in his work is so urgent it warrants forgoing the labor certification process. Similarly, while K-S- and P-J- attest to the national importance of the Petitioner's proposed endeavor, they do not establish that the national interest in the Petitioner's research is sufficiently urgent to warrant forgoing the labor certification process.

While we recognize the value of the Petitioner's advanced STEM degree, his work in furthering critical and emerging technology, and that he is well positioned to advance his proposed STEM endeavor of national importance, the record does not establish that 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 has established that he is an advanced degree professional eligible for EB-2 classification, and that he meets the first and second *Dhanasar* prongs. The Petitioner has not demonstrated that he meets the third *Dhanasar* prong and merits a waiver of the job offer requirement in the national interest.

ORDER: The appeal is dismissed.