In Re: 37896856 Date: APRIL 21, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a biomedical sciences researcher, 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
- 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).

II. ANALYSIS

SCOPS determined the Petitioner qualified for EB-2 classification as an advanced degree professional because he submitted evidence of his Doctor of Philosophy in Immunology degree from the [redacted] We agree. The only issue on appeal is whether he qualifies for and merits a waiver of the job offer requirement in the national interest.

In his initial statement, the Petitioner describes his proposed endeavor as "to target pathogenesis mechanics and natural host immune responses to develop and optimize novel approaches to treating and preventing autoimmune disease and infectious disease." The Petitioner states he would pursue his proposed endeavor while employed as a Senior Scientist at [redacted] In response to SCOPS' request for evidence, the Petitioner specified he intends to conduct "research focused on advancing therapeutic strategies for autoimmune diseases, specifically inflammatory bowel disease (IBD) and rheumatoid arthritis (RA)."

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.* SCOPS 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 other broader implications indicating national importance. *Id.* at 889-90. SCOPS determined the Petitioner established the importance of his field, but submitted insufficient evidence of the national importance of his specific proposed endeavor. On appeal, the Petitioner asserts the Director did not evaluate all the relevant evidence he submitted.

The Petitioner asserts his proposed endeavor has national importance because it involves science, technology, engineering, and mathematics (STEM) and the advancement of genome and protein engineering including design tools and the engineering of multicellular systems, which are biotechnologies that the National Science and Technology Council (NSTC) has identified as critical and emerging technologies (CETs). The Petitioner submitted the NSTC CETs List Update which identifies biotechnologies as a CET and genome and protein engineering including design tools and engineering of multicellular systems as CET subfields. U.S. Citizenship and Immigration Services (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/. However, "in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." *Id.* The record here does not establish the national importance of the Petitioner's proposed endeavor.

The Petitioner also claims his proposed endeavor has national importance because it has broad implications for the United States and the National Institutes of Health (NIH) has funded his research. In support of this claim, the Petitioner cites articles and recommendation letters. An article by the [redacted] on autoimmune diseases states that 50 million people in the United States have an autoimmune disease making it the third most prevalent disease category. An article from the [redacted] also states that antinuclear antibodies, a key indicator of autoimmunity, are becoming increasingly more prevalent in the United States. An article by [redacted] states that the cost of treating autoimmune diseases in the United States is estimated at more than $100 billion annually. While these articles discuss the prevalence and impact of autoimmune diseases in the United States, they do not address the Petitioner's specific proposed endeavor. Our assessment of national importance does not focus on the importance of a field in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. *Cf. id.* at 892 (citing media articles and other evidence documenting Congressional interest in Dhanasar's research).

The Petitioner submitted a partial copy of one article he co-authored that states the work was supported by grants from the NIH. The Petitioner is identified as the seventh co-author of this article, which does not indicate that he was primarily responsible for securing the research funding. *Cf. id.* at 893 n.11 (stating Dhanasar initated, was the primary award contact, or was the only listed researcher on many of his federal grants).

The Petitioner submitted support letters from other researchers who praise his past work, but do not discuss his proposed endeavor. S-R-[2], Senior Lecturer at the [redacted], describes the Petitioner's research on the inhibition of several viruses by the addition of salt into the growth medium. S-R- explains the Petitioner's "experiments demonstrated the conversion of chloride ions into hypochlorous acid with which the cell stopped the virus from multiplying." S-R- states the Petitioner's research was published in [redacted] and has been cited numerous times. While he also praises the Petitioner's knowledge and skills, S-R- does not discuss the Petitioner's specific proposed endeavor.

K-T-, Director of the [redacted] in China, discusses the Petitioner's research on genetic antibiotic resistance in enterococcal bacteria in which he "clearly demonstrated the significance of antibiotic resistance to the viability of infectious bacteria." K-T- states the Petitioner's "findings are pivotal to the creation of new, more effective strategies for hindering viral infections." While he attests to the importance of the Petitioner's past work, K-T- does not address the Petitioner's specific proposed endeavor.

M-K-, Professor [redacted] California, discusses the Petitioner's examination of the IL-22 cytokine, which plays a major part in immune responses to pathogens like *E. coli* and states the Petitioner "has contributed to a deeper comprehension of immunology." M-K- describes the Petitioner as "an outstanding biomedical researcher," but does not discuss his proposed endeavor.

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

While S-R-, K-T-, and M-K- attest to the significance of the Petitioner's skills, knowledge, and past work, their letters are more relevant to the second *Dhanasar* prong which considers whether an individual is well positioned to advance the proposed endeavor. As S-R-, K-T- and M-K- do not discuss the Petitioner's proposed endeavor, their letters are not probative of national importance. *Cf. id.* (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it related to U.S. strategic interests).

Although the Petitioner's proposed endeavor involves a CET and a matter of national significance, the record does not establish the potential prospective impact of the Petitioner's specific proposed endeavor. Consequently, he has not demonstrated the national importance of his proposed endeavor.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of his specific proposed endeavor and does not meet the first 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 second and third 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").

III. CONCLUSION

The Petitioner has not established the national importance of his proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, the Petitioner 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.