U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37850715

Date: APR. 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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).

SCOPS denied the petition, concluding that the Petitioner qualified for EB-2 classification, but that she had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest**.** On appeal, the Petitioner submits additional documentation and asserts that she is eligible for the benefit sought. 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 sustain the appeal.

I. LAW

To qualify for a national interest waiver, a petitioner must first show eligibility for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. If a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish 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 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 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).

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

II. ANALYSIS

SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree. The sole issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we conclude the Petitioner has established eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

A. Substantial Merit and National Importance of the Proposed Endeavor

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.* We agree with SCOPS' determination that the Petitioner's endeavor has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We withdraw SCOPS' determination that the Petitioner did not establish the national importance of her proposed endeavor under *Dhanasar's* first prong. As evidence that her proposed research has national importance, the Petitioner indicated that she intended to continue research "on elucidating the molecular mechanisms underlying neurological disorders, including Alzheimer's disease and Friedreich's ataxia, using 2D and 3D pluripotent stem cell-based models." The Petitioner's research aims to "provide critical insights into the etiology of [neurodegenerative diseases], contributing to the development of new treatments and preventive strategies, thereby enhancing the quality of life for patients and their caregivers." The record includes letters of support discussing how the Petitioner's proposed work stands to advance U.S. medical interests. Additionally, the Petitioner has submitted documentation indicating that the benefit of her proposed research has broader implications for the field, as the results are disseminated to others in the field through medical journals and lectures. As the Petitioner has demonstrated both the substantial merit and national importance of her proposed research, she has established that she meets the first prong of the *Dhanasar* framework.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the Petitioner in determining whether the individual is well positioned to advance the proposed endeavor. *Dhanasar*, 26 I&N Dec. at 890. We withdraw SCOPS' conclusion that the Petitioner did not establish she meets *Dhanasar's* second prong. The Petitioner possesses a Master of Science degree in molecular biology and a Ph.D. in medical sciences from [redacted] USCIS considers an advanced degree, particularly an advanced degree in a Science, Technology, Engineering, and Mathematics (STEM) field tied to the proposed endeavor and related to work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness or national security, an especially positive factor to be considered along with other evidence for purposes of the assessment under the second prong. *See* 6 *USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policymanual. The record also includes the

Petitioner's curriculum vitae; published and presented work; peer review activity; evidence of publications and citatory evidence; funding documentation; and letters confirming the Petitioner's past and present employment. In addition, several references identify specific examples of how the Petitioner's research progress relating to stem cells has affected their work. As corroborating documentation regarding the significance of his work, the Petitioner provided evidence showing that her published work has been frequently cited by independent researchers. Accordingly, the Petitioner has demonstrated that she satisfies the second prong of the *Dhanasar* framework.

C. Balancing Factors to Determine Waiver's Benefit to the United States

Furthermore, we withdraw the SCOPS' determination that the Petitioner did not establish she meets *Dhanasar's* third prong. As explained above, the third prong requires the 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.[2] As a Ph.D. holder with a decade of experience as a research scientist and lecturer, the Petitioner possesses considerable experience and expertise in her research field. The record also demonstrates the urgent need and widespread benefits associated with research progress of neurological disorders including Alzheimer's disease and Friedreich's ataxia. Based on the Petitioner's track record of successful research and the significance of her proposed work to advance U.S. medical interests, we conclude that she offers contributions of such value that, on balance, they would benefit the United States even assuming that other qualified U.S. workers are available. The Petitioner, therefore, meets the third prong of the *Dhanasar* framework.

III. CONCLUSION

The Petitioner has met the requisite three prongs set forth in the *Dhanasar* analytical framework. We conclude that she has established she is eligible for and otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is sustained.

[2] When evaluating the third prong, USCIS considers the following combination of facts contained in the record to be a strong positive factor:

- The person possesses an advanced STEM degree, particularly a Ph.D.;
- The person will be engaged in work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness; and
- The person is well positioned to advance the proposed STEM endeavor of national importance.

See USCIS Policy Manual, *supra*, at F.5(D)(2).