U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37958026

Date: APR. 28, 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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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 sustain 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;

[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).

- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree.[2] 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.

At the time of filing, the Petitioner was employed as a hospitalist at [redacted] Regarding his proposed endeavor, the Petitioner indicated that he intended to continue his research aimed at improving clinical outcomes and quality of life for patients with peripheral arterial disease. He further stated:

> My current project focuses on how gender and ethnic group variations occur in patients undergoing carotid (large neck vessels) revascularization. My second project explores clinical outcomes in patients affected by chronic total occlusion the blood vessels supplying the lower extremities and how these results vary in different ethnic groups and across the United States.

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.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with SCOPS' determination that the Petitioner's proposed endeavor has both substantial merit and national importance.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether they are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or

[2] The Petitioner received a Bachelor of Medicine and Bachelor of Surgery (MBBS) degree from [redacted] in 2015. This degree represents attainment of a level of education comparable to a first professional degree in medicine in the United States.

[3] As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for him to have a job offer from a specific employer. However, we will consider information about his research position to illustrate the capacity in which he intends to work in order to determine whether his proposed endeavor meets the requirements of the *Dhanasar* framework.

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.* We withdraw SCOPS' conclusion that the Petitioner did not establish he meets *Dhanasar's* second prong.

The record includes the Petitioner's curriculum vitae, academic records (including his MBBS degree), medical license and certifications, published and presented work, peer review activity, and documentation of numerous articles that cited to his research findings. In addition, the Petitioner offered reference letters describing his medical research expertise and his past record of success in investigating vascular diseases. Several expert references identify specific examples of how the Petitioner's research progress relating to hypertension has affected his field. As corroborating documentation regarding the significance of his work, the Petitioner provided evidence showing that his published work has been frequently cited by independent researchers. His experience and expertise as a medical researcher, published articles, citation evidence, record of success contributing to various research projects, and progress in his field position him well to advance his proposed endeavor. Accordingly, the Petitioner has demonstrated that he satisfies the second prong of the *Dhanasar* framework.

C. Whether on Balance a Waiver is Beneficial

We also withdraw SCOPS' determination that the Petitioner did not establish he meets *Dhanasar's* third prong. This 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. *Id.* at 890. As a physician, the Petitioner possesses considerable experience and expertise in research involving vascular diseases. The record also demonstrates the widespread benefits associated with research progress aimed at improving clinical outcomes and quality of life for patients with peripheral arterial disease. In addition, the Petitioner has documented his past successes in advancing vascular disease research and in publishing influential medical research findings. Based on the Petitioner's track record of successful research and the significance of his proposed work to advance U.S. public health interests, we conclude that he 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 satisfies 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 he has established he is eligible for and otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is sustained.