U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38591606

Date: AUG. 27, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a biochemist, 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 EB-2 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 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.

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 remand the petition for further consideration.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification 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), 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 also 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v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).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.

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 first prong of the *Dhanasar* framework, SCOPS determined that the Petitioner's proposed endeavor as described above has substantial merit and is of national importance. Upon review of the record, we agree that the Petitioner has established that he meets the first prong of the *Dhanasar* framework.

A. The July 2024 letter offering employment (offer letter) did not cast doubt on the reliability and sufficiency of the remaining evidence that the Petitioner is well-positioned for his proposed endeavor.

The Petitioner is a Research Associate at the [redacted] Pennsylvania [redacted] and submitted a July 2024 offer letter as proof of continued employment. SCOPS found that a July 2024 offer letter in the record gave rise to two evidentiary problems.

First, SCOPS found that the offer letter was not credible evidence of the Petitioner's employment because the letter was written in the first person. The offer letter began with the words, "[i]t is my pleasure to offer you an appointment…" with a start date of July 1, 2024. SCOPS found that the use of the first-person language, "my pleasure," indicated that the writer was acting in her "personal capacity" and not within the scope of the writer's employment at [redacted] Upon de novo review, SCOPS's conclusion reflects a strained and overly literal interpretation of standard offer letter language, divorced from the practical and contextual realities of employment practices. The broader context warrants interpreting the language as an institutional offer, not a personal offer.

Second, SCOPS stated that the offer letter, setting a start date of July 1, 2024, conflicted with a subsequent letter from the same hiring manager claiming that the Petitioner commenced as a Research Associate on February 20, 2023. SCOPS characterized the varying start dates as, "greatly discrepant," noting that discrepancies encountered in the evidence call into question the petitioner's ability to meet their burden of proof. On appeal, the Petitioner explains that the July 2024 offer letter addresses a promotion and salary increase, not a change in the Petitioner's initial start date for employment. Upon de novo review, the Petitioner's initial February 2023 start date for employment, on a J-1 visa, is substantiated in the record by his Form DS-2019 and an official offer letter from a senior manager in human resources.

Upon de novo review, we disagree with and withdraw SCOPS's findings that: (1) the wording of the offer letter cast doubt on the reliability and sufficiency of the remaining evidence, and (2) that the Petitioner submitted greatly discrepant evidence of the date he commenced employment at [redacted]. The totality of the evidence establishes that the Petitioner has been an employee at [redacted] since February 2023.

B. Well-Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. To determine whether an individual is well-positioned to advance the proposed endeavor, we consider factors including, but not limited to 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.

In evaluating the Petitioner's request for a national interest waiver, SCOPS concluded that the Petitioner had not established that he is well positioned to advance the endeavor, or that, on balance it would be beneficial to the United States to waive the job offer requirements. Specifically, SCOPS stated that his recommendation letter failed to provide specific examples of how the Petitioner's work has influenced the biochemistry field and that the Petitioner failed to provide independent objective evidence demonstrating how his works have influenced the field beyond adding to the general pool of knowledge. Next, SCOPS found that the Petitioner did not demonstrate he published in esteemed journals, he failed to demonstrate a notable citation record compared to others in the field, and SCOPS noted that he was not the investigator who applied for funding for his research.

On appeal, the Petitioner asserts, among other things, that SCOPS's focus on the erroneous finding that the offer letter cast doubt on the reliability and sufficiency of the remaining evidence triggered an undue burden on the Petitioner "to resolve" the purported credibility of the offer letter with independent evidence in the record. He also argues that SCOPS did not consider all the evidence or adequately explain the rationale underlying their determination. We agree.

An officer must fully explain the reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(1)(i). This explanation should be sufficient to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See, e.g.*, *Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). SCOPS' decision did not meet these requirements, and it is unclear whether they fully considered the record.

The record includes the following: the Petitioner's curriculum vitae; academic records; published and presented work; peer review activity; documentation of articles that cited to his research findings; recommendation letters from academic research colleagues; letter of promotion from postdoctoral researcher to Research Associate at [redacted]. The Petitioner received a Ph.D. in Korean medicine, integrative medicine and related areas from [redacted] in South Korea in 2018.[2] Evidence shows the Petitioner has been engaged in research related to his degree and has authored peer-reviewed articles of his research which are published in multiple reputable journals and conferences.

[2] For purposes of assessment under the second prong, USCIS considers an advanced degree in the fields of science, technology, engineering, and mathematics (STEM), which is tied to the proposed endeavor and related to work furthering a STEM area important to U.S. competitiveness or national security, an especially positive factor to be considered along with other evidence. *See generally* 6 *USCIS Policy Manual,* F.5(D)(2), https://www.uscis.gov/policymanual.

The Petitioner submitted recommendation letters from fellow academic researchers who describe their research expertise and the significance of the Petitioner's expertise in hydrogel tissue hybrid imaging for visualizing cells and neurons. Additionally, the record contains evidence that the Petitioner has contributed to ten peer-reviewed research publications, with six of those as the first author. He also serves as a review editor for two peer-reviewed journals. The Petitioner is a co-author of 38 peer-reviewed articles since 2016. He provided evidence on appeal that his articles have been cited [redacted] times, excluding self-citations. He also provided statistics which show he has an h-index[3] of [redacted] meaning that 16 of his articles were cited at least 16 times each.

It is unclear whether SCOPS fully analyzed the record in making their determination. While the evidence in this case may ultimately be insufficient to demonstrate the Petitioner's eligibility for a national interest waiver under the three *Dhanasar* prongs, SCOPS' decision did not adequately address the proposed endeavor or provide sufficient analysis based on the evidence to support their conclusions. As such, we will remand the matter for further proceedings. If SCOPS concludes that the Petitioner's evidence does not meet a specific eligibility requirement, the decision should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility. SCOPS may request any additional evidence considered pertinent to the determination prior to issuing a new decision. In remanding, we express no opinion as to the ultimate resolution of this case.

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

[3] An h-index is defined as the number of research papers (h) that have been cited at least h times, reflecting the quantity and citation impact of an individual's research output.