U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40375482

Date: DEC. 05, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a biostatistician, 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 record did not establish that a waiver of the job offer requirement is 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.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

SCOPS determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. Based on the evidence in the record that the Petitioner possesses a doctor of philosophy degree (Ph.D.) in mechanical engineering from [redacted], we agree. The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement is in the national interest. SCOPS determined that the Petitioner did not establish any of the three required prongs of the *Dhanasar* analytical framework. Upon de novo review, we agree that the Petitioner has not established the national importance of the proposed endeavor.

The first prong of the *Dhanasar* analytical framework focuses on the specific endeavor that the individual proposes to undertake. *Id.* 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.*

The Petitioner states that his proposed endeavor is to "develop a novel smartphone-based 12-lead electrocardiogram medical-grade cardiovascular disease biomedical device" to improve early diagnosis of cardiac conditions. The Petitioner is currently employed as a biostatistician, a position which the Petitioner states "includes clinical trials and conducting advanced data analytics for retrospective studies and prospective clinical trials, developing protocols and study designs." The Petitioner states that he plans to continue in this position for the foreseeable future, and that this position is relevant to his proposed endeavor because this experience with clinical trials has provided the Petitioner "with the advanced skill set that is required to develop medical devices." The Petitioner did not submit any evidence of having designed a specific product or prototype but claims that the proposed device will be "affordable and user-friendly."

On appeal, the Petitioner claims that the record establishes that heart disease is the leading cause of death in the United States, that there is also a heavy toll on the U.S. economy due to cardiovascular disease, and that the proposed endeavor is therefore nationally important. The Petitioner also points to his personal statement, submitted in response to the request for evidence (RFE), in which he claims that his proposed device facilitates early detection of cardiac conditions, improves efficiencies, and reduces costs. The Petitioner also claims on appeal that the endeavor's national importance is established by the evidence that his work has been included in an online database of scientific studies hosted by the Environmental Protection Agency (EPA). The Petitioner asserts that this demonstrates that a U.S. government agency has deemed his research "scientifically rigorous" and "directly relevant to informing the agency's decision-making processes in regards to chemical regulation."

The Petitioner also objects to some of the specific analysis in the SCOPS decision. For example, the Petitioner objects to SCOPS' finding that the record does not sufficiently establish the impact of the proposed endeavor "beyond its clients or employers," as stated in the decision, because the harms associated with cardiovascular disease are "hardly limited to any potential clients or employer, and

extend to the United States as a whole." The Petitioner also objects to SCOPS' statement that the Petitioner has "not shown that it is nationally important for clients to use your services rather than those of competitors," because the Petitioner claims that SCOPS is improperly comparing the Petitioner's proposed endeavor to "another imagined researcher's proposed endeavor."

Upon de novo review, we agree with SCOPS that the evidence is insufficient to establish the proposed endeavor's national importance. First, we agree with SCOPS' finding that the Petitioner's description of the proposed endeavor is not sufficiently detailed. The Petitioner's personal statement claims that he intends to develop a "novel" electrocardiogram medical device. However, as SCOPS noted in its decision, the record does not contain evidence to explain how this device will be novel and there is little specific evidence in the record about the specifics of this product. Without more specific evidence about the product, we are unable to evaluate the reliability of the Petitioner's claims that the proposed device is nationally important because it will be highly effective, widely available, accurate, easy to use, and that it therefore has the potential to have a broad impact on public health. As such, the Petitioner has not met his burden of proof to establish the national importance of the proposed endeavor.

As the Petitioner claims on appeal, the record does contain evidence, such as reports from the World Health Organization and the Centers for Disease Control, regarding the prevalence of cardiovascular disease, its impact on public health, and the costs of those impacts to the economy. However, we agree with SCOPS that the record does not sufficiently establish the potential prospective impact of the proposed endeavor on these issues. In determining whether a proposed endeavor has national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. The evidence regarding the societal impact of cardiovascular disease does not establish that the Petitioner's proposed medical device will contribute to cardiovascular health or to the U.S. economy at a level commensurate with national importance.

Regarding the inclusion of the Petitioner's work in an EPA database, the Petitioner submitted evidence that a journal article co-authored by the Petitioner, titled "[redacted]," is listed in the EPA's Health and Environmental Research Online (HERO) database. The Petitioner provided a printout from the EPA's website stating that the database includes scientific references and data from peer-reviewed literature used by the EPA to develop reports and in decision making. On appeal, the Petitioner claims that SCOPS "dismisse[d] the evidence of the EPA's interest in [the Petitioner's] research." However, the Petitioner does not identify on appeal any specific legal or factual errors in SCOPS' conclusion that this evidence does not help demonstrate the national importance of the proposed endeavor. Moreover, we agree with SCOPS. The Petitioner has not shown how this paper, or its inclusion in this database, relates to the proposed endeavor or helps establish its potential prospective impact.

The lack of detail regarding the proposed endeavor is further complicated by the Petitioner's claim that he intends to pursue his proposed endeavor through his current employment as a biostatistician and that this employment is in "direct alignment" with the proposed endeavor. The Petitioner claims that this is established by a letter from his employer, submitted a letter in response to the RFE. The employer letter, however, does not discuss the proposed endeavor and does not support the Petitioner's

claim that this employment aligns with or furthers the endeavor. Rather, the letter states that the Petitioner's work as a biostatistician involves "the design, execution, analysis, and dissemination of high-impact therapeutic clinical trials and non-therapeutic studies." Although analysis of the Petitioner's progress in advancing the proposed endeavor or his model or plans for future activities are generally considerations for the second *Dhanasar* prong, we conclude that the Petitioner's discussion of his current employment is relevant here because it further demonstrates the lack of clarity in the record regarding the specifics of the proposed endeavor itself, which is a consideration for the first prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889. Given the lack of clarity and detail regarding the Petitioner's proposed endeavor to develop a novel hand-held smartphone ECG device, we conclude that the Petitioner's stated intention to continue in this employment "for the foreseeable future," further diminishes the credibility of the Petitioner's claims regarding his proposed endeavor.

The Petitioner's claims on appeal do not overcome the basis for SCOPS' findings as they relate to the national importance of the proposed endeavor. Moreover, upon de novo review, we agree that the Petitioner has not established the national importance of the proposed endeavor. Because the Petitioner has not established the national importance element of the first prong of the *Dhanasar* framework, he has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve our opinion regarding whether the record satisfies the substantial merit element of the first *Dhanasar* prong or the second and third *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

The Petitioner has not met the national importance requirement of the first prong of *Dhanasar*. We therefore conclude that the Petitioner has not established that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.