U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40717243

Date: DEC. 18, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a graduate student in biochemistry, 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 the Petitioner had established he was an advanced degree professional, but did not demonstrate 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

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: (1) the proposed endeavor has both substantial merit and national importance; (2) the individual is well-positioned to advance their proposed endeavor; and (3) 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

In evaluating the Petitioner's request for a national interest waiver, SCOPS concluded that while the Petitioner had established he is well positioned to advance the proposed endeavor, he had not demonstrated his proposed endeavor's national importance or that, on balance, it would be beneficial to the United States to waive the job offer requirements. On appeal, the Petitioner contends, among other things, that SCOPS misapplied *Dhanasar* and provided an incomplete analysis that ignored much of the evidence. For the reasons discussed below, we conclude that SCOPS' decision did not adequately address the evidence submitted or provide sufficient analysis based on the record to support their conclusions.

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). Here, SCOPS' decision did not meet this requirement.

The Petitioner claims he plans to work as a postdoctoral research scientist. In his personal statement, he states his proposed endeavor is "to discover and develop novel antibiotics targeting bacterial pathogens in order to address the public health threats and economic burdens associated with antibiotic resistance."

In finding the Petitioner did not meet the national importance element of *Dhanasar's* first prong, SCOPS found, among other things, that working in an important field was insufficient to establish the national importance of the Petitioner's proposed endeavor. They also stated that, while the Petitioner submitted evidence of his publication and citation record to establish how his past research success suggested his future endeavor would have a similar impact, this evidence did not in itself establish the national importance of the proposed endeavor. SCOPS further found that because the Petitioner did not provide sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to the future work, he had not shown that the benefits to the regional or national economy resulting from the proposed endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*.

In making these determinations, however, SCOPS did not meaningfully address or analyze the evidence submitted in support of this prong. Instead, they broadly found that the record did not support the Petitioner's claims to establish his endeavor's national importance and provided little analysis explaining how they reached their conclusions.

For example, as noted by the Petitioner on appeal, the record includes a letter by Dr. [redacted] Chief of Infectious Diseases and Professor of Pediatrics, [redacted] and [redacted] Vice Chair of the [redacted] at the [redacted]. Dr. [redacted] stated that the Petitioner's research "has enhanced the understanding of antibiotic resistance and revealed innovative treatments of antibiotic-resistant infectious pathogens, such as *S. aureus,*

C. difficile, and Acinetobacter baumannii." He also highlighted the impact of antimicrobial-resistant pathogens and stated that the Petitioner's research is "essential to reducing systemic strain on U.S. healthcare systems by aiding in the control of antibiotic resistance." The decision, however, provides little analysis of this or other documentation in the record and instead broadly concludes the evidence was insufficient to meet this prong.

In addition, SCOPS states that: "[T]he issue here is not the broader implications of the [sic] your innovations or the widespread utilization of these services by consumers, but rather the potential prospective impact of your specific proposed work. The record does not show that your proposed endeavor stands to sufficiently extend beyond your company, future clientele, or business partnership to impact the field more broadly at a level commensurate with national importance." But, it is unclear why any broader implications of the Petitioner's claimed innovations or any widespread utilization of his work would not be a consideration when evaluating the endeavor's potential prospective impact. *See generally* 6 *USCIS Policy Manual* F.5(D)(3), https://www.uscis.gov/policy-manual. Moreover, in light of the Petitioner's stated plans to continue research and development at a university or hospital, and not a private company, it is unclear what company or business partnership SCOPS is referring to and what evidence they relied on in reaching their conclusion. Again, an officer must fully explain the reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(1)(i).

On remand, SCOPS should revisit the descriptions of the proposed endeavor as outlined in the Petitioner's personal statements and other evidence of record. After reviewing the Petitioner's endeavor, SCOPS should then examine the specific evidence in the record to determine the potential prospective impact of the proposed endeavor, including whether the evidence demonstrates that the Petitioner's endeavor to continue his research on discovering and developing antibiotics targeting bacterial pathogens would have the broader, nationally important implications as claimed.

Turning to *Dhanasar's* second prong, to determine whether a petitioner is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual's 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. *Matter of Dhanasar*, 26 I&N Dec. at 890.

SCOPS found that the Petitioner demonstrated he is well positioned to advance his proposed endeavor. However, the decision lacked any analysis explaining how they reached this conclusion. And, based on the record, it is unclear whether the Petitioner has met his burden to show he satisfies this prong. *See Matter of Chawathe*, 25 I&N Dec. at 375 (stating that petitioners bear the burden of establishing their eligibility and under this standard we consider the quality, such as relevance and probative value, of the evidence, in addition to quantity).

For instance, the Petitioner holds a bachelor's degree in medical laboratory technology, a master's degree in biochemistry, and is currently working towards a Ph.D. at the [redacted] in biochemistry. He stated that he endeavors to continue his research after graduating from his Ph.D. program by working as a postdoctoral research scientist in his current lab then later as a postdoctoral clinical biochemist in a research hospital. Although the evidence reflects that he has been pursuing his Ph.D. in biochemistry since 2021, the record indicates that he has not yet completed the degree

and it is uncertain when it will be completed. It is, therefore, unclear how the Petitioner intends to advance his endeavor as a postdoctoral research scientist as claimed in his petition without the requisite degree.

Additionally, while the Petitioner submitted a letter from Dr. [redacted] indicating a "strong interest" in employing the Petitioner as a postdoctoral fellow following the completion of his Ph.D., as noted above, he is not currently a postdoctoral fellow and it is unclear if or when he will be one. Moreover, we note that expressing simply a "strong interest" in hiring the Petitioner contingent on his graduation with an unknown date does not establish a concrete plan to advance the proposed endeavor.

In addition, while the Petitioner asserts his publication in prestigious journals and citation record is evidence of his research success, the record reflects that at the time of filing his petition, the Petitioner had only published five, co-authored journal articles, none of which listed him as a first author. While the Petitioner asserts that his citation record, nevertheless, places these articles in the top 10 to 20 percent of the most cited articles in Biology and Biochemistry, the record lacks sufficient context and evidence to demonstrate his five articles have, for instance, widely influenced the field or otherwise established a clear record of success. *Cf. Matter of Dhanasar*, 26 I&N Dec. at 891-92 (noting that the petitioner's education, experience, and expertise in his field, as well as the significance of his role in research projects, among other things, positioned him well to advance his proposed endeavor).

Moreover, while the Petitioner asserts he demonstrated interest by relevant parties in his work through project funding from various entities such as the National Institute of Allergy and Infectious Disease (NIAID) and the National Institutes of Health (NIH), the Petitioner concedes, and the record reflects, that he was not the primary award recipient or principal investigator on these projects. The record lacks sufficient detail regarding the Petitioner's role or responsibilities or that his work or reputation were integral to securing these funds. While the Petitioner may have participated in the project, without clear documentation of how his work or contributions impacted the funding process, it cannot be concluded that these awards are indicative of his capacity to independently advance significant research endeavors. By contrast, in *Dhanasar*, we noted that the petitioner had received "consistent" government funding of research projects in which he played a "significant" role, specifically that he initiated or was the primary award contact on several funded grant proposals and was the only listed researcher on many of the grants. *Id.* at 892-93, n.11. Here, while the Petitioner's involvement in funded research may be considered favorable, the evidence submitted does not sufficiently demonstrate that the Petitioner is well positioned to independently secure funding or lead the advancement of his proposed endeavor.

Based on the record before us, the evidence does not appear to establish the Petitioner is well positioned to pursue the proposed endeavor. But, without a specific discussion of the evidence, it is unclear how SCOPS reached their favorable conclusion on this prong. Because a new first-line adjudication of *Dhanasar's* first and second prongs are required, SCOPS should also reevaluate whether the Petitioner meets the requirements of the third prong.

Accordingly, we withdraw SCOPS' decision and remand this matter for further consideration and entry of a new decision. On remand, SCOPS should review the entire record and determine whether the Petitioner has established eligibility under each of the three *Dhanasar* prongs. 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 the case.

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

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.