U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41003214

Date: FEB. 06, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a transportation engineer, 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 did not establish 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

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

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

II. ANALYSIS

SCOPS concluded that the Petitioner meets the requirement for EB-2 classification as a member of the professions holding an advanced degree. In addition, SCOPS determined that the proposed endeavor has substantial merit and that the Petitioner is well-positioned to advance it. However, SCOPS determined that the record does not establish that the proposed endeavor is of national importance and that, on balance, waiving the job offer requirement would benefit the United States. On appeal, the Petitioner claims, in part, that SCOPS mischaracterized the record and the proposed endeavor; and therefore, applied the wrong analysis. Upon review, we agree that SCOPS did not properly analyze the proposed endeavor or sufficiently explain the basis of their determination. Therefore, we will withdraw the decision and remand the matter for entry of a new decision.

The Petitioner's proposed endeavor is to continue his research "to develop and employ machine learning, data-driven methods, and spatial analysis to identify and mitigate crash risk factors in order to enhance road safety, reduce traffic-related injuries and fatalities, ensure the safe integration of connected vehicle technologies, and improve transportation mobility and safety in the United States." In the decision, SCOPS' national importance analysis states that the Petitioner "did not offer specific information and evidence to corroborate his assertion that the prospective impact of continuing his work as a systems engineer consultant in the field of information technology and software development rises to the level of national importance." On appeal the Petitioner contends that SCOPS misstated his position and the field of endeavor and we agree. The record is clear that the Petitioner is a transportation engineer who will continue his research in this field. In addition, the decision makes this determination without meaningful analysis of the evidence in the record.

The regulation at 8 C.F.R. § 103.3(a)(1)(i) states that when denying a petition, SCOPS shall explain in writing the specific reasons for denial. An officer must fully explain the reasons for denying the petition in order to allow the Petitioner a fair opportunity to contest the decision and our opportunity for meaningful appellate review. *Cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that an Immigration Judge must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Here, SCOPS misidentified the Petitioner's proposed endeavor and his field of work and did not discuss the evidence in the record or explain the reasons for their conclusion. Consequently, as the decision lacks a sufficient explanation for concluding that the proposed endeavor did not rise to the level of national importance; the decision does not provide an opportunity for meaningful appellate review, as is required. *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).

Further, the decision states that the Petitioner has not "offered sufficient information and evidence to illustrate the number of individuals his business plans to hire, train and support" and concludes, "[t]here is no evidence to illustrate that the rate of pay he intends to pay his current or prospective employees would have 'substantial positive economic effects' such as revenue or job creation." On appeal, the Petitioner contends that SCOPS mischaracterized the record, as the proposed endeavor does not entail establishing or operating a business since he is not an entrepreneur, but a researcher. The record confirms the Petitioner's assertion, that he intends to continue his research through his employment as a transportation engineer where he specializes in "conducting traffic studies, safety analyses, and corridor evaluations to enhance roadway safety and urban mobility." On appeal, the Petitioner updates the record with an offer letter for the position of "Associate Research Fellow" from [redacted], where he will "perform transportation planning and modeling for local and state transportation agencies" and "coordinate the development, update, and maintenance of regional transportation planning models." Here too, SCOPS did not provide a sufficient explanation for concluding that the record did not establish "substantial positive economic effects" as they did not apply the *Dhanasar* framework to the relevant facts of this petition. Because SCOPS reached its conclusions based on several misrepresentations of the record, the determination will be withdrawn.

On remand, SCOPS should consider whether the record establishes the Petitioner's proposed endeavor as a researcher in the transportation engineering field meets the national importance element of the *Dhanasar* framework. *Matter of Dhanasar*, 26 I&N Dec. at 889. In addition, after coming to a national importance determination, SCOPS should evaluate prong three by analyzing the evidence in the record under the appropriate proposed endeavor. SCOPS may request any additional evidence considered pertinent to the new determination. As such, we express no opinion regarding the ultimate resolution of this case on remand.

III. CONCLUSION

SCOPS' decision indicates that the determinations were not entirely based on the record in this case. The decision did not sufficiently specify the reasons for denial, did not provide the Petitioner with a meaningful opportunity to contest the decision, and did not provide us with the basis for meaningful appellate review. SCOPS' decision will be withdrawn and the matter will be remanded for entry of a new decision.

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