U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41586830

Date: FEB. 26, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a researcher in biotechnology, 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 record did not establish that the Petitioner is eligible for a national interest waiver as a matter of discretion. 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.

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

The Petitioner is a biotechnology researcher whose proposed endeavor is to "develop and enhance the genomic editing tools for disease modeling and gene therapy to advance the clinical management of chronic conditions, including neurodegenerative, psychological, and autoimmune disorders." SCOPS determined that the Petitioner is eligible for the EB-2 classification as a member of the professions holding an advanced degree,[2] and that the record establishes her proposed endeavor's substantial merit and national importance. However, SCOPS ultimately concluded that the Petitioner did not establish eligibility for a national interest waiver as the record did not establish she is well-positioned to advance the proposed endeavor and that, on balance, waiving the job offer requirement would benefit the United States. On appeal, the Petitioner contends that SCOPS erred in this conclusion and that she meets all three prongs of the *Dhanasar* framework. Upon de novo review, we conclude the record does not establish the Petitioner's proposed endeavor is of national importance and therefore she is not eligible for a national interest waiver as a matter of discretion. Therefore, we withdraw SCOPS' determination on this matter for the reasons discussed below.

A. The Record Establishes the Proposed Endeavor Has Substantial Merit

The first prong, substantial merit and national importance, 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.* As stated above, the Petitioner intends to "develop and enhance the genomic editing tools for disease modeling and gene therapy to advance the clinical management of chronic conditions, including neurodegenerative, psychological, and autoimmune disorders." She asserts that her work will enhance national health and well-being by improving chronic disease treatment efficacy and patient outcomes. The record includes industry reports and articles about the prevalence of noncommunicable and autoimmune diseases, neurological conditions, and discusses relevant initiatives in support of advancing treatment. We conclude the Petitioner's proposed endeavor has substantial merit.

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[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).

[2] The Petitioner is a researcher in the biotechnology field. She submitted evidence of a master's degree in biotechnology and bioinformatics from [redacted] SCOPS concluded that the Petitioner qualifies as a member of the professions holding an advanced degree and we agree.

B. The Record Does Not Establish the Proposed Endeavor Has National Importance

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. SCOPS determined that the Petitioner established her proposed endeavor's national importance. On appeal, the Petitioner reiterates her claim of national importance and highlights various pieces of evidence in the record. Upon de novo review, we will withdraw SCOPS' decision on this matter as we conclude that the record does not establish the national importance of the proposed endeavor.

Dhanasar states that an undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances. *Id.* The Petitioner intends to implement her proposed endeavor through two projects. First, she will study proteins in the cell in order to better identify the mis-localized proteins that are seen in Alzheimer's disease. She contends that this research will improve public health and reduce the socioeconomic burden of neurodegenerative diseases. Her second project works with genome editing technology to develop an all-in-one quality control method to streamline the assessment process, making it safer and reproducible. She asserts that this aligns with federal guidance and the need for sensitive and validated methods to detect unintended genomic changes in gene therapy projects. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. While her work is meritorious, here, the evidence in the record does not support a determination of national or global implications within the biotechnology field.

The Petitioner asserts that her research aligns with national interests in biotechnology and healthcare. She supports these claims with evidence such as articles in the record from the World Health Organization (WHO) on neurological conditions being the leading cause of illness and disability worldwide and articles on the prevalence of deaths due to noncommunicable diseases. The Petitioner states that her proposed endeavor has national importance, in part, because her research directly aligns with national interests by helping find treatments for neurological conditions and noncommunicable diseases. While the articles in the record support her statements on these diseases, the articles do not further the Petitioner's claim of her proposed endeavor's national importance. As stated above, in determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. These articles demonstrate the impact of these diseases, but they do not establish the proposed endeavor's impact. For example, on appeal the Petitioner highlights that the record includes evidence of the growth and prevalence of autoimmune diseases in the United States as well as a lack of treatment. While we acknowledge the importance of addressing issues related to the prevalence of these diseases; the relevance of the Petitioner's proposed endeavor to important issues does not establish national importance as it does not demonstrate her proposed endeavor's prospective impact. The relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* Here, the Petitioner improperly relies upon evidence of the importance of the industry as sufficient to establish the national importance of her proposed endeavor. Without sufficient documentary evidence of the specific proposed endeavor's broader

impact on the industry, the Petitioner's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

The Petitioner submitted letters of recommendation as evidence of the national importance of her proposed endeavor. While the authors discuss the impact of her prior work and how her work has been used by others in her field, this does not demonstrate the prospective impact of the work the Petitioner describes in her proposed endeavor statement. Although one author states, "it is clear that the continuation of her work is incredibly important to improving the clinical management of neurodegenerative disorders in the United States;" the letter focuses on the Petitioner's previous projects and their impact; not the impact of the research the Petitioner proposes in the instant petition. The second letter is from the Petitioner's employer. This author too speaks generally about the importance of the Petitioner's research while detailing projects the Petitioner previously worked on; stating, "the importance of [the Petitioner's] research to the elucidation of protein dynamics and cellular responses is evident, given the breakthroughs that her research has fostered in these areas and the field of biotechnology more generally." Here too, the author describes the importance of the Petitioner's prior work. As stated above, in determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. While we acknowledge the Petitioner's experience in the field; evidence of the Petitioner's past success and experience is relevant to *Dhanasar's* prong two analysis, on whether the petitioner is well-positioned to advance the endeavor. It does not establish the national importance of the proposed endeavor as its focus is on the Petitioner's qualifications and not the endeavor's prospective impact. *Id.* Therefore, evidence of the Petitioner's past experience, even if successful, does not sufficiently establish the national importance of the proposed endeavor. *Id.* at 890.

The Petitioner contends that her research was supported by funding from the Department of Defense, the California Institute for Regenerative Medicine, and NIH and that she received this funding due to her proposed endeavor's national importance. However, we note that the record includes evidence that this funding was for projects the Petitioner previously worked on. As the record does not establish this funding is for her proposed endeavor, this evidence does not relate to the prospective impact of her proposed endeavor but relates to her prior experience. As stated above, evidence of the Petitioner's past experience, even if successful, does not sufficiently establish the national importance of the proposed endeavor and is more relevant to *Dhanasar's* prong two analysis. *Id.*

Dhanasar states that an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance. *Id.* On appeal, the Petitioner states that "[g]iven the considerable health impact of noncommunicable diseases on the United States and high associated costs, [the Petitioner's] proposed endeavor is also nationally beneficial because of its 'substantial positive economic effects.'" Further, in her personal statement, the Petitioner asserts that her research "could inform early detection tools and drug development pipelines, potentially reducing the multibillion-dollar annual cost of Alzheimer's disease care in the U.S." As stated above, a petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. Here, the record does not contain sufficient evidence to support her claims of economic impact and thus we cannot conclude the Petitioner's proposed endeavor has significant potential to employ U.S. workers or other substantial positive economic effects. Accordingly, the record does not support the Petitioner's assertion that her proposed endeavor will have substantial

positive economic effects and does not further establish the national importance of her proposed endeavor.

For the reasons stated above, we withdraw SCOPS' finding of national importance and conclude that the record does not establish the national importance of the Petitioner's proposed endeavor under the *Dhanasar* framework. While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the Petitioner is ineligible for a national interest waiver, we need not reach, and therefore reserve, remaining *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 requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that she 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.