U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40797978

Date: JAN. 08, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a researcher in the field of computer science, 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 while the record established the Petitioner's eligibility for the EB-2 classification as a member of the professions holding an advanced degree, it did not establish that she merited a national interest waiver. 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.

Id.

II. ANALYSIS

The Petitioner states that she is currently employed as a consultant with [redacted], and the record shows that she holds a master's degree in statistics from [redacted]. We agree with SCOPS' conclusion that she is eligible as a member of the professions holding an advanced degree, and will therefore move on to her request for a national interest waiver.

She describes her proposed endeavor as follows:

> Develop and scale advanced AI-driven deep learning models capable of synthesizing realistic medical images and predicting future medical conditions for medical imaging and diagnosis applications in order to reduce diagnostic errors, enable early disease detection, optimize patient care, and lower health costs in the United States.

As noted above, eligibility for a national interest waiver is conducted using a three-pronged framework. The first prong of the *Dhanasar* analytical framework, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. 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.*

Here, SCOPS determined that the Petitioner's proposed endeavor is of substantial merit. Based upon letters from experts in the field of AI and trade and scholarly articles in the record concerning the use of AI in medical image analysis, we agree that the Petitioner has established the substantial merit of her proposed endeavor.

Turning to the other half of the first prong analysis, SCOPS concluded that the evidence did not show that the Petitioner's proposed endeavor is of national importance. But in making this determination, they primarily relied upon an analysis of the evidence of the Petitioner's research and work history, and appeared to conflate her proposed endeavor with her employment. However, as mentioned above, the analysis in the first prong under the *Dhanasar* framework is prospective, focusing on the merits of the proposed endeavor, and is not limited by a petitioner's occupation or educational status at the time of filing. As with all those applying for a national interest waiver, we consider the Petitioner's current

[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).

and prospective job offers in this analysis only as they illustrate the capacity in which she intends to work.

In discussing the national importance of the Petitioner's proposed endeavor, SCOPS noted that the evidence did not establish that her work had influenced her field beyond her employer's clients. Continuing in this vein, they noted that she had not established that her published research had been frequently cited by independent researchers, that it had "served as an impetus for progress in the field of computer science," or that it "otherwise constitute[s] a record of success or progress in advancing research relating to artificial intelligence." But these factors are among those considered in the second prong of the *Dhanasar* analytical framework, where we determine whether the petitioner has established that they are well positioned to advance their proposed endeavor. *Id.* at 890.

As SCOPS incorrectly relied upon factors relating to the second prong of the Dhanasar analysis in concluding that the Petitioner had not established that her proposed endeavor was of national importance, we are remanding this matter for SCOPS to issue a new decision. When determining whether the Petitioner's proposed endeavor is of national importance, SCOPS should determine whether she has established that the potential prospective impact of her endeavor would have broader implications in her field. *Id.* at 899. If SCOPS concludes that the Petitioner has established the national importance of her proposed endeavor, they should complete the analysis under the second and third prongs of the *Dhanasar* framework to determine whether the Petitioner merits a national interest waiver of the EB-2 classification's job offer requirements.

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.