U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40715843

Date: JAN. 12, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an accountant, 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 concluding that the Petitioner qualifies for classification as a member of the professions holding an advanced degree, but that she had not established 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.

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 is an account. Evidence of her education includes a degree certificate showing that she earned the degree in public accounting in 2001 from [redacted] in [redacted], Colombia. Based on her claimed "expertise in accounting, financial management, entrepreneurship, and leadership," the Petitioner states that her endeavor is "to provide consulting, training, and related professional services in financial control, bookkeeping, and tax compliance to small businesses, startups, and entrepreneurs."

SCOPS, however, stated that the Petitioner's proposed endeavor is to be an electrical engineer and "to continue research in development and optimization of power systems that will conserve energy and reduce power loss along the transmission lines." SCOPS also noted that the Petitioner's supporting statement "reflects her intention to work for [redacted] as an Electrical Design Engineer and to continue researching[,] publishing[,] attending conferences[,] making presentations at conferences[,] collaborating with other Electrical Engineers[,] joining and actively participating in professional societies . . . as well as mentoring and teaching aspiring engineers."

SCOPS therefore misstated the proposed endeavor and then relied on the incorrectly stated endeavor to conduct an analysis within the scope of the *Dhanasar* analytical framework. SCOPS then concluded, based on the misstated endeavor, that the Petitioner did not establish that: 1) *this* (incorrectly stated) endeavor has substantial merit and national importance; 2) the Petitioner is well positioned to advance *this* endeavor; and 3) on balance, it would be beneficial to waive the requirements of a job offer, and thus a labor certification, so that the Petitioner can pursue *this* endeavor. Based on the foregoing, it does not appear that the record was properly reviewed and that the denial was based on the evidence in the record.

Because SCOPS did not deny the petition based on the Petitioner's actual proposed endeavor, the denial does not provide the Petitioner with a complete and accurate analysis, nor does it adequately explain the deficiencies in the evidence. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also 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).

Notwithstanding the lack of a proper analysis, however, it does not appear that the Petitioner's proposed endeavor – to provide financial consulting services to businesses and entrepreneurs – meets

[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).

the three prongs of the *Dhanasar* analytical framework. Therefore, on remand, SCOPS should consider the Petitioner's proposed endeavor and then analyze the evidence submitted in support of that endeavor under the *Dhanasar* framework to determine whether she is eligible for a national interest waiver. SCOPS should request any additional evidence warranted and allow the Petitioner to submit such evidence within a reasonable period prior to making a determination about the Petitioner's eligibility for a national interest waiver. SCOPS should also determine whether the Petitioner has submitted sufficient evidence to establish that she meets the EB-2 classification as a member of the professions holding an advanced degree.

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.