U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40777202

Date: JAN. 14, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a software development manager, 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 not established eligibility for the underlying EB-2 immigrant classification as an advanced degree professional and, therefore, had not demonstrated eligibility for 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.

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: (1) the proposed endeavor has both substantial

[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).

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.*

In denying the Petitioner's request for a national interest waiver, SCOPS concluded that the Petitioner had not established he qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree. In their decision, SCOPS referenced the deficiencies cited in the Request for Evidence (RFE), which had found that the Petitioner's foreign degree documents were "unclear and illegible" and that the English translation certifications were "insufficient" as filed. SCOPS again concluded that the English translation certifications were deficient and stated that "USCIS cannot rely upon foreign language documents supported with insufficient translation certifications."

On appeal, the Petitioner asserts, among other things, that SCOPS erred in finding that the copy of his diploma submitted in response to the RFE was "new evidence" rather than a "correction" based on the deficiencies outlined in the RFE. He also argues that the translation certificates complied with the regulatory requirements.

Upon de novo review, we conclude a remand is appropriate in this case. Although SCOPS found the Petitioner's diploma and certificates were "deficient," the decision lacks adequate rationale explaining 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). SCOPS' decision did not meet these requirements and, based on the evidence, it is unclear whether SCOPS fully reviewed the record in making their determinations.

For example, SCOPS stated that "[t]he English translation certification for the document in the title of 'Declaracao' was insufficient and the foreign document was submitted without an English translation." However, a review of the record reveals the English translation, in fact, was provided with the initial petition.

SCOPS also acknowledged that the Petitioner had submitted academic records and transcripts in response to the RFE, but noted that these documents had not been provided with the initial filing and that the Petitioner had provided no explanation as to why they were not submitted earlier. However, a review of the record again reveals that both the Petitioner's foreign language diploma and transcript, along with their accompanying translations, were submitted with the initial petition. And while we agree with SCOPS that the Petitioner's diploma submitted with the initial filing was illegible, the Petitioner submitted a clear, reissued copy of his diploma in response to SCOPS' concerns outlined in the RFE.

Contrary to SCOPS's statement, the Petitioner also provided an explanation for the resubmission in his RFE response. The Petitioner stated that "[d]ue to the passage of time, the original [diploma] had faded slightly, which may have affected its clarity in reproduction" and "[t]o address this, I have now included a newly issued official copy of the diploma, dated April 8, 2025, signed by the [redacted], along with a clearer scanned version, in full compliance with USCIS evidentiary requirements." In light of SCOPS' statement that the Petitioner did not submit an explanation with

the evidence, it is unclear whether SCOPS considered this statement or fully reviewed the RFE response and, if so, why they found the diploma and accompanying explanation were insufficient to satisfy their concerns.

In addition, while SCOPS rejected the translation certificates submitted with both the initial filing and the RFE response as "deficient," they provided no specific rationale explaining their conclusion. 8 C.F.R. § 103.2(b)(3) states that "[a]ny document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English."

Both the original evidence and RFE response included translation certificates, which stated:

> I, [redacted], hereby certify that I translated the attached document from Portuguese into English and that this translation is an accurate and faithful translation of the original document. Furthermore, I certify that I am proficient in translating both Portuguese and English. This document has been proofread and the attached document is a faithful and authentic translation of its original . . . I have made the attached English translation from the original document and hereby certify that the same is true, accurate, and complete translation to the best of my knowledge, ability, and belief."

The decision only stated the translation certifications were deficient without specifically explaining why they were insufficient. Again, an officer must fully explain the reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(1)(i).

For the reasons discussed above, it is unclear how SCOPS reached their conclusions and whether they fully analyzed the record in making their decision. While the evidence in this case may ultimately be insufficient to demonstrate the Petitioner's eligibility for a national interest waiver, SCOPS' decision did not adequately consider or explain their findings based on the evidence to support their conclusions. As such, we will withdraw SCOPS' decision and remand this matter for further consideration.

On remand, SCOPS should review the record, including the additional evidence submitted on appeal, and reevaluate the threshold issue of whether the Petitioner established eligibility for the EB-2 classification as a member of the professions holding an advanced degree. If SCOPS determines the Petitioner is eligible for the classification, SCOPS should then consider whether the Petitioner is eligible for a national interest waiver under the *Dhanasar* analytical framework. SCOPS may request any additional evidence considered pertinent to their determination prior to issuing a new decision. In remanding, we express no opinion as to the ultimate resolution of this case.

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