U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40780405

Date: JAN. 20, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a musician and music educator, 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 although the Petitioner demonstrated her eligibility for classification as an advanced degree professional, she did not establish that a waiver of the job offer requirement, and thus a 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). While we conduct de novo review on appeal, *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that a remand is warranted in this case because SCOPS' decision is insufficient for 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 a member of the professions holding an advanced degree or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2) of the Act. 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.

[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).

Id.

The record supports SCOPS' determination that the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree. The Petitioner has a master's degree from [redacted] and was pursuing a doctoral degree in music at the [redacted] at the time of filing. Therefore, the remaining issue is whether she qualifies for and merits a waiver of the job offer requirement in the national interest.

In a career plan submitted in support of her petition, the Petitioner stated that her proposed endeavor is to advance music education by opening a piano studio, producing and distributing instructional videos via live-streamed masterclasses and workshops, hosting webinars focused on piano pedagogy and curriculum design, and presenting at national and international music education conferences. In addition, she indicates she plans to organize international music festivals and piano competitions in the United States and continue her career as a solo pianist.

SCOPS determined that the Petitioner established the substantial merit of her endeavor, but did not meet her burden to show its national importance, that she is well-positioned to advance it, or that, on balance, it would benefit the United States to waive the job offer requirement.

On appeal, the Petitioner maintains that SCOPS' decision was "vague and arbitrary" and shows a "complete failure to consider the supporting evidence" she submitted to demonstrate her eligibility under *Dhanasar*'s three prongs.

We agree that SCOPS did not sufficiently analyze the record based on the framework set forth in *Matter of Dhanasar* and did not sufficiently put the Petitioner on notice regarding evidentiary deficiencies in the record. Although SCOPS generally listed some of the evidence submitted by the Petitioner, its decision did not identify her specific proposed endeavor, include an analysis of the documentation submitted, or provide an explanation of why the evidence was determined to be deficient. For example, with respect to *Dhanasar's* first prong, SCOPS' reference to specific materials in the record was limited to paraphrasing a statement made by the Petitioner's counsel; the decision did not acknowledge the Petitioner's submission of the career plan describing her proposed endeavor or otherwise address her specific claims relating to the endeavor's national importance.

USCIS regulations require that a denial decision explain specific reasons for denial and notify the affected party of their appeal rights. 8 C.F.R. § 103.3(a)(l)(i), (iii); *cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal). Here, SCOPS' decision did not adequately explain the specific reasons for denial. Accordingly, while the evidence of record may ultimately be insufficient to demonstrate the Petitioner's eligibility for the requested national interest waiver, it is appropriate to withdraw SCOPS' decision and remand the matter for further consideration and entry of a new decision.

On remand, SCOPS should review the entire record, including the Petitioner's appeal, in considering whether the Petitioner has provided sufficient detail regarding her proposed endeavor and whether she has established eligibility under each of the three prongs of the *Dhanasar* framework. Prior to issuing

a new decision that complies with the requirements at 8 C.F.R. § 103.3(a)(1)(i), SCOPS may issue a new request for evidence or notice of intent to deny.

In considering the Petitioner's eligibility under *Dhanasar*'s first prong, SCOPS must determine whether the record demonstrates, by a preponderance of the evidence, that the proposed endeavor would have a potential prospective impact that rises to the level of national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889. The Petitioner's primary claim is that her endeavor will have broad implications for the field of music education and broadly enhance cultural enrichment. However, the Petitioner's assertions alone cannot establish the national importance of her proposed endeavor. SCOPS' analysis should consider whether the petition contains substance that both explains and corroborates how working in the proposed endeavor meets the "national importance" standard. SCOPS should also consider other relevant factors set forth in *Matter of Dhanasar*, including, but not limited to, whether the Petitioner demonstrated that her endeavor would have the significant potential to employ U.S. workers or other substantial positive economic effects. *Id.* at 889-90.

In determining whether an individual is well-positioned to advance the proposed endeavor under *Dhanasar*'s second prong, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890. On remand, SCOPS should evaluate the evidence to determine whether the Petitioner established her eligibility under the second prong based upon these factors. For example, SCOPS may consider whether the lack of specificity in the Petitioner's "career plan," which was submitted for the first time in response to a request for evidence, sufficiently demonstrates a "model or plan for future activities." Also related to the Petitioner's plan for future activities, SCOPS may consider whether there is sufficient evidence in the record reflecting feasible plans for the financial support for her endeavor or evidence of interest from prospective or potential clients, partners or other relevant parties.

Finally, SCOPS stated the third prong's balancing analysis and concluded that the Petitioner "has not established that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification." However, SCOPS did not adequately explain how the evidence in the record led to that determination. On remand, SCOPS' decision should address the Petitioner's arguments and evidence relevant to *Dhanasar*'s third prong, and explain the relative decisional weight given to each balancing factor.

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