U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39114109

Date: JUL 1, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a postdoctoral research scholar, 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).

SCOPS denied the petition, concluding that although the Petitioner qualified for the EB-2 classification as a member of the professions holding an advanced degree, the record did not establish 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.

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] *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 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 proposes to continue her research on developing an "advanced mathematical model to understand real-world dynamics that are useful in applications such as ecology systems, animal behaviors, climate change, and disease control research." SCOPS found that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree.[2] The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

A. Substantial Merit and National Importance

The first prong, 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.*

The Petitioner explains that her work will include "developing constrained optimization models to balance agricultural productivity and pollinator health, using game theory to promote coexistence, and employing artificial intelligence (AI) to analyze ecological data and predict conservation strategies." She states that she is currently employed as a postdoctoral researcher at [redacted] University. In support of her petition and in response to SCOPS' request for evidence (RFE), the Petitioner presented documentation including a curriculum vitae, academic records, and a personal statement detailing her proposed endeavor and future plans. The Petitioner also provided letters of support from experts in the field, Google Scholar citation record, peer-reviewed journal articles, citation metrics, and industry reports and articles.

In denying the petition, SCOPS determined that the Petitioner's proposed endeavor has substantial merit, and that she is well positioned to advance the proposed endeavor. SCOPS determined, however, that the Petitioner did not establish the proposed endeavor's national importance, and that, on balance, it would benefit the United States to waive the job offer requirement. On appeal, the Petitioner contends that SCOPS "dismissed or ignored much of the evidence" and denied the first prong "without providing a detailed analysis explaining the alleged insufficiency" of the supporting evidence.

Upon review, we agree that SCOPS did not properly consider the submitted evidence or provide a sufficiently detailed explanation of the reasons for denial. In evaluating *Dhanasar*'s first prong, SCOPS concluded, without a meaningful analysis of the evidence, that the Petitioner has not "provided

[2] The Petitioner earned a Doctor of Philosophy in applied mathematics for the life and social sciences from the [redacted] University in 2023.

sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable" to her future work. SCOPS further determined that the proposed endeavor's impact did not stand to sufficiently extend beyond the Petitioner's company, future clientele, or business partnership to influence the field more broadly at a level commensurate with national importance. As noted, the Petitioner submitted documentation including a personal statement detailing her proposed research endeavor. However, SCOPS' decision did not provide a thorough analysis of the Petitioner's evidence and whether the research endeavor has national importance by considering the broad implications of the Petitioner's work. An officer must fully explain the reasons for denying a visa petition in order to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See* 8 C.F.R. § 103.3(a)(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).

On remand, SCOPS should provide a full and complete analysis of the Petitioner's specific proposed endeavor and determine whether it is of national importance. If SCOPS concludes that the Petitioner's specific proposed endeavor does not meet the substantial merit or national importance requirements of *Dhanasar*'s first prong, the decision should adequately explain the reasons for ineligibility.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Matter of Dhanasar*, 26 I&N Dec. at 890. To determine whether they are well positioned to advance the proposed endeavor, 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.*

With respect to the second prong, SCOPS reached a similarly conclusory determination that the Petitioner was well positioned to advance the proposed endeavor. However, SCOPS' decision lacked sufficient discussion and analysis of the evidence. On remand, SCOPS should evaluate the record and provide a full and complete analysis of the Petitioner's eligibility to advance her proposed endeavor.

C. Whether on Balance a Waiver is Beneficial

The third prong requires a petitioner to demonstrate 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. *Id.* at 890-91. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. *Id.* In each case, the factor(s) considered must, taken together, establish 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. *Id.* at 891.

As to the third *Dhanasar* prong, SCOPS concluded that the Petitioner had not demonstrated 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 without sufficient analysis. On remand, SCOPS should review the record and sufficiently explain the reasons for the denial.

Again, an officer must explain the specific reasons for denying a petition. *See* 8 C.F.R. § 103.3(a)(1)(i). While the evidence of record may ultimately be insufficient to demonstrate the Petitioner's eligibility for the requested national interest waiver, SCOPS did not adequately address the evidence and arguments submitted with the initial filing and in response to the RFE, did not discuss most of the relevant factors set forth in *Dhanasar* and, therefore, did not sufficiently explain the reasons for denial.

III. CONCLUSION

For the reasons outlined above, we are withdrawing SCOPS' decision and remanding the matter so that SCOPS may determine whether the Petitioner has established eligibility for a national interest waiver as a matter of discretion. SCOPS should properly apply all three prongs of the *Dhanasar* analytical framework to determine if the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. If SCOPS concludes that the Petitioner's evidence does not meet a specific eligibility requirement, the decision should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility. SCOPS may request any additional evidence considered pertinent to the new determination and we express no opinion regarding this matter's ultimate disposition.

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