U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39115628

Date: JUNE 27, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a senior legal advisor, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. See section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i).

SCOPS denied the petition, concluding that the Petitioner did not demonstrate he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The matter is now before us on appeal. 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 SCOPS' decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

An advanced degree is any United States 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 United States 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.

Once a petitioner demonstrates eligibility for the underlying classification, he or she must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the

national interest to do so. Matter of Dhanasar, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. Dhanasar states that 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

A. Advanced Degree Professional

In the decision denying the petition, SCOPS concluded that the Petitioner qualifies for the underlying EB-2 classification as a member of the professions holding an advanced degree. For the reasons provided below, we withdraw SCOPS' determination.

SCOPS' determination that the Petitioner qualifies as a member of the professions holding an advanced degree was based solely on his academic credentials from a foreign academic institution. The record, however, is not sufficient to demonstrate the Petitioner has either the foreign equivalent above that of a U.S. bachelor's degree or the foreign equivalent of a U.S. bachelor's degree followed by five years of progressive experience in the same specialty. See 8 C.F.R. § 204.5(k)(2).

The Petitioner submitted diplomas and academic transcripts indicating he earned a bachelor of law from [redacted] in the United Kingdom in June 2018 and a post graduate diploma in legal practice from [redacted] United Kingdom in November 2019. In addition, he submitted an academic evaluation stating his bachelor of law is the foreign equivalent of a U.S. juris doctor degree and his postgraduate diploma is the foreign equivalent of a U.S. master's degree.

According to the educational credentials for United Kingdom as set out by the American Association of Collegiate Registrars and Admissions Officers' (AACRAO) in the Electronic Database for Global Education (EDGE),[2] a bachelor's degree in law is awarded after a three-year program of study and is comparable to a bachelor's degree in the United States. Moreover, EDGE indicates that a postgraduate diploma is awarded after completion of 25 weeks of postgraduate study is comparable to one year of graduate study in the United States. Here, the academic evaluation contradicts the educational credentials for United Kingdom in EDGE for a bachelor's degree in law and a postgraduate diploma. The record does not indicate the Petitioner has the claimed foreign equivalent degree above that of a

[1] See Flores v. Garland, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeal in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

[2] AACRAO is a nonprofit professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions in over 40 countries. See http://www.aacrao.org/who-we-are. We consider EDGE to be a reliable source of information about foreign credential equivalencies. See Confluence Intern., Inc. v. Holder, Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); Tisco Group, Inc. v. Napolitano, No. 09-cv-I 0072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); Sunshine Rehab Services, Inc. No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). See also Viraj, LLC v. Holder, No. 2: 12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013).

U.S. bachelor's degree. Moreover, although EDGE confirms that the Petitioner's bachelor's degree in law is the foreign equivalent of a U.S. bachelor's degree, the record does not adequately document that he has five years of progressive post-baccalaureate experience in the same specialty.

Without further evidence, the Petitioner has not demonstrated he has earned a U.S. degree or the foreign equivalent of a U.S. degree above that of a bachelor's degree, or a U. S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty, or otherwise demonstrates he qualifies as an advanced degree professional. See 8 C.F.R. § 204.5(k)(2).

On remand, SCOPS should consider whether this evidence establishes that the Petitioner has obtained the equivalent of an advanced degree within the meaning of 8 C.F.R. § 204.5(k)(3)(i)(A) or has otherwise established eligibility for the underlying visa classification as an advanced degree professional or an individual of exceptional ability.

B. National Interest Waiver

In applying the Dhanasar framework, SCOPS determined that the Petitioner established the substantial merit of his proposed endeavor, but nonetheless concluded he was not eligible for the requested national interest waiver because he did not demonstrate his proposed endeavor has national importance, that he is well-positioned to advance the proposed endeavor, or that, on balance, it would be beneficial to the United States to waive the job offer requirement and thus a labor certification.

On appeal, the Petitioner asserts that SCOPS' decision contains erroneous conclusions of law and fact and does not reflect consideration of the submitted evidence. The Petitioner argues SCOPS' decision erroneously identifies his proposed endeavor by stating he "intends to work as a Corporate Lawyer in the field of Corporate Law." He maintains that the evidence, including his statements and business plan, clearly indicates that his endeavor is more than being a corporate lawyer for a prospective employer, and that, instead, he proposes to establish his own corporate transaction legal and consulting business for which he would be the chief executive officer and a partner.

In his Form I-140, the Petitioner states that his proposed job title would be a corporate lawyer with a nontechnical job description, "represent clients in order to manage, strategize and draft legal commercial documents in relation to all stages of corporate transactions." In his statement, he describes his proposed endeavor by stating that through his corporate transaction legal and consulting practice he would advise marginalized businesses to reduce their dependence on debt finance by exposing them to equity, venture capital, and strategic capital market solutions. In his request for evidence (RFE) reply, the Petitioner clarified that he proposes to be a venture capital legal advisor and investment consultant for diverse entrepreneurs, providing a business plan related to his new company, [redacted] LLC. The decision, however, only indicates that the Petitioner's proposed endeavor is to work as a corporate lawyer in corporate law without discussing his establishment of a business and the facts of the Petitioner's proposed endeavor.

On remand, SCOPS should analyze the evidence to determine whether the record sufficiently describes the proposed endeavor, and whether the endeavor has substantial merit and is of national importance. If SCOPS concludes that the Petitioner's documentation does not meet the substantial

merit or national importance requirements of *Dhanasar's* first prong, the decision should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility.

Although SCOPS' decision made findings for the three Dhanasar prongs, it did not identify or discuss the evidence in the record at all in making these findings. Instead, SCOPS stated the law and the relevant considerations for each of the Dhanasar prongs, concluding he did not meet each of the three prongs. Similar to the decision, SCOPS' RFE stated the legal requirements for meeting *Dhanasar's* three prongs but did not discuss the facts of this case with those legal requirements. Moreover, the RFE did not discuss the evidence submitted and specify any insufficiencies in the Petitioner's evidence relating to each of the three prongs.

An officer must fully explain the reasons for denying a visa petition 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). Here, SCOPS' decision did not adequately address the evidence submitted with the petition or in the RFE response. Without a proper analysis of the evidence with the factors identified in Dhanasar's three prongs, we cannot meaningfully analyze whether SCOPS' determination for each of the three prongs was in error.

Therefore, we will withdraw SCOPS' decision based on this deficiency. On remand, SCOPS should review the entire record in considering whether the Petitioner has sufficiently identified his proposed endeavor and whether he has established eligibility under each of the three prongs of the Dhanasar framework. If SCOPS concludes that the Petitioner's documentation does not meet any of Dhanasar's three prongs, the decision should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility.

III. CONCLUSION

Based on the foregoing, we are remanding the petition for SCOPS to consider whether the Petitioner has satisfied the eligibility requirements for the underlying EB-2 classification. See section 203(b)(2)(B)(i) of the Act. In addition, SCOPS is to consider 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. SCOPS may request any additional evidence considered pertinent to the new determination. As such, we express no opinion regarding the ultimate resolution of this case on remand.

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