U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40794698

Date: MAR. 12, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks classification as a member of the professions holding an advanced degree. *See* section 203(b)(2) of the Immigration and Nationality Act (the Act), 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 employment based second preference (EB-2) classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i).

Service Center Operations (SCOPS) denied the petition, concluding although the Petitioner demonstrated his eligibility for the requested EB-2 classification, the record did not establish that a waiver of the required job offer, and thus of the labor condition 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.

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.[1] 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.

[1] 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.*

Citizenship and Immigration Services (USCIS) may, as matter of discretion,[2] 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.

On appeal, the Petitioner contends SCOPS' decision contains erroneous conclusions of law and fact and does not explain why the evidence submitted was insufficient to establish his eligibility for the requested national interest waiver. The Petitioner references the USCIS Policy Manual, indicating that discretionary analysis involves the review of all relevant, specific facts and circumstances in an individual case. He also cites 8 C.F.R. § 103.3(a)(l)(i) to emphasize that SCOPS must fully explain the reasons for denying a visa petition so that the Petitioner has a fair opportunity to address the evidentiary deficiencies. Specifically, the Petitioner contends that SCOPS did not properly analyze his support letters and peer-review work.

Upon review, we agree with the Petitioner and withdraw SCOPS' decision as it is insufficient for review. While the Petitioner may not have established that a waiver of the required job offer would be in the national interest, an officer must fully explain the reasons for denying a petition in order to allow a 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)(l)(i); *see also Matter of M-P-,* 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denial to allow the respondent a meaningful opportunity to challenge the determination on appeal).

Here, SCOPS determined that the proposed endeavor is of substantial merit and national importance but concluded that the Petitioner is not well-positioned or that a waiver of job requirement is warranted. However, SCOPS did not properly discuss the evidence in the record or sufficiently explain the reasons for their conclusions. For example, in support of the first *Dhanasar* prong, the Petitioner submitted reports, articles, and letters of support but the Petitioner did not provide complete copies.[3] While the record may demonstrate the substantial merit portion of the first *Dhanasar* prong, SCOPS should discuss the evidence and determine whether the record establishes the national importance of his proposed endeavor as required and provide a sufficient explanation for the conclusion.[4]

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[2] *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).

[3] For instance, the report from the U.S. Department of Energy includes only the introduction page.

[4] In determining whether a proposed endeavor has national importance, USCIS must focus on the particular venture, specifically on its "potential prospective impact." *Matter of Dhanasar*, 26 I&N Dec. at 889. "An undertaking may have national importance, for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* A nationally important venture may even focus on only one geographic area of the United States. *Id.* at 889-90. "An endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.*

For *Dhanasar*'s second prong, SCOPS concluded that while the record shows the Petitioner "has relevant education and skills," it did not demonstrate that the Petitioner is well positioned to advance the proposed endeavor. However, the decision did not sufficiently describe the evidence reviewed or provide a meaningful explanation of its shortcomings. For example, the Petitioner notes that SCOPS did not "grapple with the substance" of any of the support letters or provide a proper analysis of the content of the letters.

As to the third prong, SCOPS stated the law and the relevant considerations in performing the third prong's balancing analysis and concluded that "[b]ased on the above-discussed documentary evidence, the self-petitioner has not established that it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification." While SCOPS' decision identifies the Petitioner's submitted evidence and provides a brief analysis of a few pieces of evidence, it does not sufficiently discuss the evidence weighed in balancing those considerations nor address the Petitioner's specific claims, if any, as to the third prong. Without a proper evaluation of the factors identified in *Dhanasar*'s third prong, we cannot meaningfully analyze whether SCOPS' determination for this prong was in error.

Accordingly, the matter will be remanded to SCOPS to determine if the Petitioner has established eligibility for a national interest waiver and to enter a new decision. On remand, SCOPS should review the entire record, including the Petitioner's appeal, and determine whether he has established eligibility for each of the three prongs of the *Dhanasar* framework.

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