U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37779447

Date: MAY 01, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a clinical research scientist in the field of neurology, 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 the Petitioner did not establish a waiver of the 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 dismiss the appeal.

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:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

SCOPS found that the Petitioner demonstrated her eligibility for EB-2 classification as an advanced degree professional. The Petitioner submitted a degree and academic transcripts demonstrating she holds a master of science in applied cognition and neuroscience from the [redacted]. 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). Concerning the national interest waiver, SCOPS found that the Petitioner demonstrated that her proposed endeavor has substantial merit.[2] However, SCOPS found that the Petitioner had not demonstrated her endeavor's national importance, that she was well-positioned to advance the endeavor, or 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.

The Petitioner, a clinical research scientist, seeks to "continue her career in the U.S." in the same capacity. Her "goal is to provide advanced research relevant to COVID-19, resolving issues especially" with regard to "COVID-19 resulted [sic] physical challenges of neurological issues" and "intervention methods for COVID-19 resulted [sic] mental health issues that are related to neuroscience." In response to SCOPS' Request for Evidence (RFE), the Petitioner clarified that her proposed endeavor "is to provide advanced research as a Clinical Research Scientist in neuroscience and neurological disorders relevant to Post COVID-19 symptoms (also known as Long COVID)." The Petitioner does not provide any specificity related to where she will perform her proposed endeavor. Her current position is at a pharmaceutical company where she is a clinical research manager. She also holds a position with the COVID-19 Clinical Research Coalition.[3]

Following initial review, SCOPS issued a RFE allowing the Petitioner an opportunity to submit additional evidence to attempt to establish eligibility for a national interest waiver. Concerning the national importance of the Petitioner's proposed endeavor, SCOPS noted that "there is no evidence that her proposed endeavor will have a national or even global implications in a particular field, it will create jobs, will broadly enhance the societal welfare of the community" or "impacts a matter that a government entity has described as having national importance or is the subject of national initiatives." SCOPS requested "evidence to establish that the [Petitioner's] proposed endeavor has national importance" which "demonstrate[s] the endeavor's potential prospective impact."

After reviewing the Petitioner's RFE response concerning her endeavor's national importance, SCOPS found that the evidence showed the importance of studying COVID-19 generally. However, SCOPS

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[2] The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Matter of Dhanasar*, 26 I&N Dec. at 889. We agree with SCOPS that the Petitioner's endeavor as clinical research scientist in the field of COVID-19 and related neuroscience issues is of substantial merit.

[3] The Petitioner lists her current positions working as a "Lead Team Research [sic]" at the COVID-19 Clinical Research Coalition and as "Clinical Research Manager" at [redacted]. In the letter from A-L-, the Petitioner's manager at [redacted] the author does not provide insight into the Petitioner's endeavor whether at [redacted] or elsewhere. In the letter from A-T- at the COVID-19 Clinical Research Coalition, the author is ambiguous as to whether the Petitioner's endeavor is part of her work with the Coalition or distinct from it. The Petitioner does not clarify this ambiguity on appeal.

found that the Petitioner had not demonstrated that her endeavor "has significant potential to employ U.S. workers, will have substantial positive economic effects, particularly in an economically depressed area" or "will broadly enhance societal welfare." Further, SCOPS found that the letter from the Petitioner's current employer did not show that her endeavor has "broader implications within a particular field." Lastly, SCOPS found that the articles and reports showed information about COVID-19 disorders and their effects on people, but did not show "how [her] proposed endeavor has broader implications in [the] field of neuroscience" of COVID-19 disorders.

On appeal, the Petitioner contends that SCOPS misunderstood "the focus of [her] endeavor." She asserts SCOPS made a "significant oversight" regarding "the importance and societal implications of [her] research on Long COVID." Further, she contends her endeavor aims "to create new job opportunities in the field of neuroscience and public health." In sum, the Petitioner argues that SCOPS "fail[ed] to recognize the broader implications of Long COVID on mental health and neurological disorders." She states there is an "issue" with SCOPS' "use of the term 'COVID-19.'" She adds, "[t]here is a significant distinction between the importance of studying COVID-19 and the critical need to investigate the neurological implications and disorders of 'Long COVID,' particularly concerning the mental health of vulnerable populations." The Petitioner also contends that SCOPS "fail[ed] to recognize the broader implications of Long COVID on mental health and neurological disorders."

The Petitioner points to publications from the Centers for Disease Control and Prevention (CDC) and to the Substance Abuse and Mental Health Services Administration (SAMHSA) for support that "Long COVID" is a serious issue. We acknowledge the reports and articles the Petitioner has submitted. We recognize that, for example, the CDC considers "Long COVID" a "serious illness that can result in chronic conditions requiring comprehensive care."

In determining national importance under *Dhanasar*, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have a national importance for example, because it has national or even global implications within a particular field." *Id.* Here, we acknowledge the importance and distinction of studying long COVID and its myriad aftereffects. SCOPs in fact recognized this in finding that her proposed endeavor has substantial merit. The issue, however, is the importance of the field does not alone determine national importance, rather we look to the specific proposed endeavor.

In *Dhanasar,* we also stated that "[a]n 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.* at 890. We look to the Petitioner's specific proposed endeavor's potential prospective impact in determining national importance.

The Petitioner asserts her "proposed endeavor demonstrates a significant potential for employment opportunities, unique contributions to neuroscience, substantial positive economic impacts, and broad societal welfare improvements." She claims that her endeavor will create "new job opportunities in the field of neuroscience and public health." She states that "we cannot overlook the broader implications of mental health challenges faced by those affected" by Long COVID.

The Petitioner contends that the "importance and societal implications of [her] research on Long COVID" demonstrate her endeavor's national importance. While it may be true that "individuals living with Long COVID and their caregivers face numerous challenges, including a range of neurological symptoms that require informed and compassionate care," that does not demonstrate how the Petitioner's endeavor will have broader implications in the field. A petitioner must submit "relevant, probative, and credible evidence" to establish that their claim is more likely than not or probably true. *Matter of Chawathe*, 25 I&N Dec. at 376. Here, the Petitioner has not submitted specific evidence related to her particular proposed endeavor that establishes that her endeavor will rise to the level of national importance.

In *Dhanasar*, we explained that "[a]n 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." *Matter of Dhanasar*, 26 I&N Dec. at 889.

The Petitioner argues that her "years of dedicated research and clinical experience directly correlate with the needs of these individuals" and that she "is perplexed by the suggestion that [her] neurological expertise, clinical research skills honed over a decade as a clinical researcher, is insignificant in assessing the welfare of the American people."

Here, the Petitioner relies on her education and expertise to advance her argument that her endeavor is of national importance. Yet, we analyze a petitioner's education, expertise, and skills under *Dhanasar's* second prong which shifts the focus from the proposed endeavor to the individual. *Id.* at 890. It is not that the Petitioner's experience is "insignificant," rather it is that her skills and experience go to consideration under *Dhanasar's* second prong. Thus, because we focus on the endeavor in our prong one analysis, we conclude that the Petitioner's experience and education do not demonstrate that her endeavor is of national importance.

We agree with SCOPS that the Petitioner has not demonstrated that her proposed endeavor has a significant potential to employ U.S. workers, particularly in an economically depressed area. The Petitioner claims that by "partnering with local universities and healthcare institutions" she plans to continue to "[e]stablish a dedicated research team, comprising U.S.-based scientists and technicians" and "[o]ffer internships and training programs for students in neuroscience." A document titled [redacted] states that "[w]e ensure we have access to high-quality EEG equipment and training in both data acquisition and interpretation" and "that's why we seek partnerships with local clinicians and researchers." Yet, the document provides no explanation as to how the Petitioner intends on employing any clinician or researcher. As the Petitioner's proposed endeavor is not clear regarding where she will conduct her research, at an employer, lab, university, or otherwise, it is difficult to determine whether her plan to "partner" with local universities and healthcare institutions is feasible, or how her proposed endeavor will generate employment.

The Petitioner notes in her brief that she had submitted evidence of such job creation potential with her initial submission. However, in her brief, the Petitioner does not indicate which evidence supports her contention that her endeavor has a significant potential to employ U.S. workers. *See Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (declining to address a "passing reference" to an argument in a brief that did not provide legal support). Likewise, while the Petitioner raises the issues of her

endeavor's substantial positive economic effects, enhancement of societal welfare, and cultural and artistic enrichment but provides insufficient analysis of how SCOPS erred in their consideration for us to meaningfully review her claims. *Id.* On review, we conclude that the Petitioner has not provided evidence that demonstrates her endeavor's national importance.

While we acknowledge the substantial merit of the Petitioner's proposed endeavor, and the importance of studying long COVID, the Petitioner has not established the national importance of her specific proposed endeavor. As the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the remaining arguments raised by the Petitioner regarding her eligibility under Dhanasar's second and third prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

As the Petitioner has not established that she meets the requisite national importance of *Dhanasar's* analytical framework, we conclude that she is not eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.