U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38182611

Date: MAY 7, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a telecommunications engineer, 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 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 dismiss the appeal.

In its denial, SCOPS determined the Petitioner did not sufficiently identify his proposed endeavor and, thus, did not demonstrate under the three-prong analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), that his endeavor would have substantial merit and national importance, that he would be well-positioned to advance the endeavor, and that, on balance, waiving the job offer requirement would benefit the United States.[1]

On appeal, the Petitioner argues that SCOPS did not properly consider all the evidence or provide a substantive analysis of the record, which he claims violated USCIS policy and the "*Accardi* doctrine" under *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).[2] In particular, he contends that SCOPS did not evaluate or make a determination on the substantial merit of his proposed

[1] The Petitioner claimed eligibility for the EB-2 immigrant classification as an advanced degree professional. However, because he is not eligible for, and does not merit a national interest waiver as a matter of discretion, and this determination is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the issue. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.").

[2] The Petitioner also refers to our non-precedent decision remanding a matter to SCOPS to re-evaluate the evidence and to provide an analysis supporting its conclusions. This decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c).

endeavor, and that it erroneously found his endeavor was too vague and lacked sufficient evidence of national importance. He also argues that the evidence demonstrated his eligibility under the second and third *Dhanasar* prongs.

Upon review of the entire record, we adopt and affirm SCOPS' decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted"). Contrary to the Petitioner's arguments on appeal, SCOPS thoroughly reviewed, discussed, and analyzed the record, but correctly found that the Petitioner's description of his proposed endeavor was too ill-defined and vague to establish his eligibility under the *Dhanasar* prongs.[3] Beyond generally asserting in his initial filing that his expertise "align[s] perfectly" with the Broadband Equity, Access, and Deployment (BEAD) program goals and claiming that his goal is "to actively join forces with the transformative mission of the BEAD Program, working to bridge the digital gap and boost connectivity nationwide," the Petitioner provided little detail regarding the specific activities he intends to do in his proposed endeavor.

As SCOPS noted, the Petitioner's response to the request for evidence (RFE) and supplementation of the record with industry articles, support letters, and a professional plan provided little additional information to cure this deficiency. While the Petitioner argues on appeal that he further defined his endeavor in his RFE response as [redacted] for [redacted] under the [redacted] program, this generalized description of his endeavor still lacks specificity regarding what the Petitioner is actually proposing to do within this broad objective. And while the Petitioner continues to assert that his expertise and proposed endeavor are aligned with federal initiatives, which he claims are of "recognized national importance," simply working in an important field without showing the potential prospective impact of the endeavor itself is insufficient to establish its national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889 (stating that the first prong's focus is on "the specific endeavor that the foreign national proposes to undertake"). Without a clear description of the proposed endeavor and a baseline understanding of the specific activities that the Petitioner intends to do, there can be no meaningful analysis to determine whether the proposed endeavor has substantial merit or national importance under *Dhanasar's* first prong.

Likewise, the Petitioner emphasizes his skills, expertise, and past experience. But, as he has not specifically articulated what is endeavor actually entails, including how he plans to accomplish it, he has not demonstrated that he is well positioned to advance the proposed endeavor and that, on balance, it would be beneficial to the United States to waive the job offer requirements. It is the Petitioner's burden to prove by a preponderance of the evidence that he is eligible for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. at 375. As the Petitioner has not overcome the issues raised SCOPS' decision, the petition will remain denied.

ORDER: The appeal is dismissed.

[3] The Petitioner attempts to further define his proposed endeavor in his appellate brief. However, as SCOPS did not have the opportunity to consider these new statements, we will not consider them for the first time on appeal. *See Matter of M-F-O-*, 28 I&N Dec. 408, 410 n.4 (BIA 2021) (declining to consider claims raised for the first time on appeal).