U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37895944

Date: MAY 09, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a biomedical scientist, 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 that the Petitioner had not established the national importance of his proposed endeavor, among other findings. 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.

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*.

Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[1] 8 C.F.R. § 204.5(k)(2).

[1] Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) 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,[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.

II. ANALYSIS

In the decision denying the petition, SCOPS noted that the evidence previously established that the Petitioner qualified for the requested classification as a member of professions holding an advanced degree. SCOPS had informed the Petitioner of this finding in a request for evidence (RFE) after he submitted the initial petition. However, SCOPS reversed this finding in its denial, noting that the translations the Petitioner had submitted were insufficient and could not be used to confirm that the Petitioner was a member of the professions holding an advanced degree. Additionally, SCOPS determined that although the Petitioner's proposed endeavor had substantial merit, the Petitioner had not sufficiently demonstrated its national importance under the first *Dhanasar* prong.[3]

On appeal, the Petitioner submits a brief and two additional documents and asserts his eligibility for the requested waiver.

A. Advanced Degree Professional

The Petitioner contends on appeal that he has submitted evidence of his advanced degree, including a certified translation of his academic documents, and is therefore eligible for EB-2 classification. The Petitioner asserts that he submitted documentation of his bachelor's degree, his master's degree in medical biotechnology, an English translation, and a certification of the translator's abilities and therefore properly supported his claim that he is an advanced degree professional. He notes that SCOPS did not specify what was deficient in this regard aside from citing 8 C.F.R. § 103.2(b)(3), requiring full English translations for foreign language documents as well as the translator's certification that he or she is competent to translate from the foreign language into English. The Petitioner expresses surprise that the decision did not include more of an explanation of the reasons the petition was denied, which is contrary to provisions in 1 *USCIS Policy Manual* E.9(B)(3). https://www.uscis.gov/policy-manual. He contends that SCOPS should have issued him an RFE to correct the deficiency, especially because he was issued an RFE informing him that he already had met this requirement.

[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] SCOPS moreover determined that the Petitioner had not shown that he was well-positioned to advance the proposed endeavor or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer.

We recognize the Petitioner's contentions on appeal as well as his confusion regarding the conclusions in both the denial notice and the RFE from SCOPS. When USCIS denies a petition or application, the adjudicating officer should provide a written explanation of the specific reasons for denial. 8 C.F.R. § 103.3(a)(1). Nevertheless, upon de novo review of the record, the Petitioner did not submit the translator's certification, as he asserts. We therefore cannot conclude that he has overcome SCOPS' determination that he has not submitted appropriate evidence of his advanced degree, a threshold requirement for EB-2 classification. While the Petitioner is correct that SCOPS could have issued him a second RFE on this topic, SCOPS was not required to do so. 8 C.F.R. § 103.2(b)(8) (explaining that if submitted evidence submitted does not establish eligibility, USCIS may deny the benefit request for ineligibility *or* request more information or evidence *or* notify the applicant or petitioner of its intent to deny the benefit request and the basis for the proposed denial).

B. Substantial Merit and National Importance

Even assuming arguendo the Petitioner had demonstrated that he is an advanced degree professional, we agree that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* framework.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar* at 889. The term "endeavor" is more specific than the general occupation; an individual should offer details not only as to what the occupation normally involves, but what types of work they propose to undertake specifically within that occupation. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. We also stated in *Dhanasar* 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.

In the initial petition, the Petitioner described himself as a biomedical scientist. He stated that he would study the genetic basis of cleft lip, cancer, and COVID-19 to support the development of more effective therapies in order to improve patient care. He planned to do this by utilizing his experience with identifying key genes and therapies regarding these conditions and studying the effects of prenatal drug exposure. The Petitioner stated that his work has been circulated in his field through peer-reviewed publications. He would pursue his endeavor while earning his Ph.D. at the [redacted] Upon completion of his degree, he would pursue a postdoctoral fellowship at the [redacted] With the RFE, the Petitioner additionally contended that these conditions create public health and financial burdens for affected families and cites the Centers Disease Control and Prevention and the National Institute of Dental and Craniofacial Research in support of this contention. He claimed that his future research would define and innovate gene therapy discovery methodologies crucial for translational studies, including gene therapy applications.

The record additionally includes support letters from professional associates, the Petitioner's publications, information regarding citations of his publications, and industry reports and articles. For example, [redacted] asserted that Petitioner has advanced the field of biomedical science through his expertise in genetics to develop treatments and improve the outcomes of diseases such as cleft lip and cancer. This letter additionally explained that the Petitioner's research explores solutions to birth defects such as cleft lip, which is a critical area of newborn care with significant ramifications for public health. [redacted] Associate Professor in the Department of Biophysics & Biochemistry at the [redacted] stated that the Petitioner's research projects on breast cancer served to improve patient outcomes for those diagnosed with breast cancer and supports the Petitioner's inherent value to the development of cancer therapies.

On appeal, the Petitioner argues that he has submitted sufficient evidence of the national importance of his proposed endeavor.[4] He states that his research represents a significant benefit to U.S. public health by uncovering the genetic basis for certain medical conditions, which he supported with letters and statistics submitted below. The Petitioner contends that his endeavor applies critical and emerging technology fields identified by public health authorities in a science, technology, engineering and math (STEM) field. He asserts that that SCOPS' decision was conclusory and did not evaluate or even mention key pieces of evidence, instead concluding that "none of the evidence discusses [the Petitioner's] proposed endeavor and does not highlight the impact of his work on the nation as a whole". He additionally claims that USCIS is not permitted to arbitrarily disregard evidence per *Matter of Caron International, Inc.*, 19 I&N 791, 795 (Comm'r. 1988).

The Petitioner's emphasis on the goals his endeavor seeks to address is misplaced. The relevant question is not the importance of the *field, industry, or profession* in which the individual will work (emphasis added); instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. at 889. We agree that the Petitioner's endeavor has substantial merit and do not seek to diminish the value of researching the genetic sources of cancer and other major diseases. But merely addressing an important topic or working in an important field is not sufficient to establish national importance without evidence documenting the "potential prospective impact" of a petitioner's work. The petitioner in *Dhanasar* submitted probative expert letters from individuals holding senior positions in academia, government, and industry that described the importance of hypersonic propulsion research as it relates to U.S. strategic interests. *Id.* at 892.

Here, the evidence in the record focuses on the need to address conditions like cleft lip, cancer, and COVID-19, rather than the specific work in which the Petitioner intends to engage to address them. Indeed, the record does not contain sufficient evidence analyzing the impact of Petitioner's specific proposed endeavor such that it rises to the level of national importance. The support letters from the Petitioner's professional associates, including [redacted] and [redacted] as noted on appeal, largely describe the Petitioner's various activities in medical detail and state that these are valuable contributions. But they do not elaborate on the basis for the Petitioner's specific claim that his research would lead to developing effective therapies, or otherwise has broader implications for the field rising to the level of national importance.

[4] We conclude that the Petitioner's endeavor has substantial merit. To the extent the SCOPS decision characterized it otherwise, we withdraw that determination.

On appeal, the Petitioner additionally refers to his publication history as evidence that his proposed endeavor is of national importance. While we recognize that research must add information to the pool of knowledge in some way in order to be accepted for publication, not every endeavor involving research will be found to have national importance. The record includes lists of the Petitioner's published works and how often they have been cited, specifically 15 times since 2018, as well as calculations that his citation rates are above average. The Petitioner also submitted below a citation analysis from [redacted] regarding various science fields, but this did not provide specific information, or draw any conclusions regarding, the citation rate of the Petitioner's publications. Moreover, the submitted statistics from [redacted] indicating the frequency of the Petitioner's citations do clearly not show how often the Petitioner has been cited compared to others in his field. Put differently, the Petitioner did not show how these sources calculate the percentile figures provided.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, we decline to reach and hereby reserve determination of his eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

The Petitioner has not demonstrated by a preponderance of the evidence that he is eligible for EB-2 classification. He has also not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed and the petition will remain denied.

ORDER: The appeal is dismissed.