U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38151894

Date: MAY 14, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 Petitioner established he was an advanced degree professional, but had not demonstrated 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). While we conduct de novo review on appeal, *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that a remand is warranted because SCOPS' decision is insufficient for review. Accordingly, we will withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

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: (1) the proposed endeavor has both substantial merit and national importance; (2) the individual is well-positioned to advance their proposed endeavor; and (3) on balance, waiving the job offer requirement would benefit the United States. *Id.*

[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).

In evaluating the Petitioner's request for a national interest waiver, SCOPS concluded that the Petitioner had not established his proposed endeavor's national importance, that he is well positioned to advance the endeavor, or that, on balance it would be beneficial to the United States to waive the job offer requirements. On appeal, the Petitioner asserts, among other things, that SCOPS erroneously focused on his employment instead of his proposed endeavor. He also argues that SCOPS did not consider all the evidence or adequately explain the rationale underlying their determination. We agree.

An officer must fully explain the reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(1)(i). This explanation should be sufficient to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See, e.g.*, *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). SCOPS' decision did not meet these requirements, and it is unclear whether they fully considered the record.

For example, we note that the Petitioner did not claim his proposed endeavor would be "to work as an expert in mechanical engineering" as stated in the decision. Although SCOPS later correctly identified the Petitioner's endeavor to "advanc[e] semiconductor manufacturing by leveraging process technologies, analytical modeling, experimentation, prototyping, and validation to develop robust and sustainable recipes for precision manufacturing of next-generation chips," the decision's discussion of the three *Dhanasar* prongs focuses on the Petitioner's current job as a process engineer, as opposed to the endeavor identified by the Petitioner in his personal statements and other evidence of record.

In addition, when discussing national importance, SCOPS' decision appeared to focus on their finding that the Petitioner had not demonstrated that the economic implications of his proposed endeavor would rise to the level of national importance. However, as the Petitioner asserts on appeal, economic impact may be a favorable consideration but is not a requirement in determining national importance. *Matter of Dhanasar*, 26 I&N Dec. at 889. As *Dhanasar* states, "[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." *Id.* Such broader implications of the Petitioner's stated research activities, or lack thereof, were not discussed.

Concerning *Dhanasar's* second prong, SCOPS also stated "since the proposed endeavor has not been clarified, the beneficiary has not sufficiently demonstrated that his past work constitutes a record of success or progress in advancing the proposed endeavor." The record reflects that the Petitioner submitted an updated statement in response to the request for evidence (RFE) describing in further detail, for instance, how he intends to "deploy innovative optics-based tactile sensors with over one million receptors per square centimeter, achieving precise force measurements and spatial resolution with environmental immunity." In light of the additional evidence submitted in the RFE response, the decision does not explain which aspect of the endeavor they find was still unclear.

In addition, while SCOPS discounted the Petitioner's support letters, they provided no specific rationale as to why they found the letters to be unpersuasive. The decision also did not discuss the Petitioner's evidence of his publications and citation data, which the Petitioner claims demonstrated his record of success and influence in the field.

Therefore, it is unclear whether SCOPS fully analyzed the record in making their determination. While the evidence in this case may ultimately be insufficient to demonstrate the Petitioner's eligibility for a national interest waiver under the three *Dhanasar* prongs, SCOPS' decision did not adequately address the proposed endeavor or provide sufficient analysis based on the evidence to support their conclusions. Accordingly, we will withdraw SCOPS' decision and remand this matter for further consideration and a new first-line adjudication.

On remand, SCOPS should evaluate the evidence of record and articulate whether that evidence establishes the Petitioner's eligibility for a national interest waiver. If SCOPS concludes that the Petitioner's evidence does not meet a specific eligibility requirement, the decision should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility. SCOPS may request any additional evidence considered pertinent to the determination prior to issuing a new decision. In remanding, we express no opinion as to the ultimate resolution of this case.

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