U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42892507

Date: MAY 15, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a software development 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 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.*

The Petitioner is a software development engineer and states he has over five years of experience in the information technology field. In his brief submitted with the petition, the Petitioner stated that his

[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).

proposed endeavor is "advancing U.S.-led innovation in open, interpretable, and agent-enabled artificial intelligence by building the infrastructure that allows large language models (LLMs), which act as the brain, to interface with the real world and perform complex, goal-oriented tasks."

SCOPS determined that the Petitioner qualifies for the underlying EB-2 classification as an advanced degree professional but that he did not establish his eligibility under the *Dhanasar* analytical framework. Specifically, although SCOPS found substantial merit in the proposed endeavor, they concluded the Petitioner did not establish that his proposed endeavor has national importance. They also found that, while the Petitioner demonstrated that he is well positioned to advance the proposed endeavor, he did not establish that, on balance, waiving the job offer requirement would be beneficial to the United States.

On appeal, the Petitioner generally contends that SCOPS "failed to apply a holistic, totality-of-the-evidence assessment, mischaracterized the Petitioner's original research infrastructure as generic industry descriptions, and improperly elevated evidentiary requirements for recommendation letters."

We conclude that a remand is appropriate because the appellate record is not complete for our review. Many of the exhibits, which the Petitioner cites to in his briefs submitted to SCOPS, are illegible. In the documents initially submitted with the petition, the following exhibits are wholly or partially illegible: 2, 3, 5, 12, 13, 15-21, 26-29, 31, 33, 35-37, 54, 57-61. Likewise, in the Petitioner's response to SCOPS' Request for Evidence, the following exhibits are wholly or partially illegible: 12, 22-25. It is unclear whether these exhibits were originally poor copies submitted by the Petitioner or if these issues arose during USCIS' intake process.[2] Regardless, as the record stands, we are unable to meaningfully review the evidence.

On remand, SCOPS should allow the Petitioner to resubmit clear copies of the previously submitted exhibits that are illegible. SCOPS should then evaluate the evidence of record and articulate whether that evidence establishes the Petitioner's eligibility for a national interest waiver under each of the three *Dhanasar* prongs. In analyzing the first prong under the *Dhanasar* framework, specifically national importance, we focus on the specific endeavor the petitioner proposes to undertake and look for broader implications. *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." *Id.* However, a petitioner's work in an important field alone is insufficient to establish the national importance of the endeavor. The petitioner must still demonstrate the specific endeavor's potential prospective impact in that area of national importance. We note that, while letters from interested U.S. government agencies or quasi-governmental entities in the United States may be helpful in determining whether an endeavor rises to the level of national importance, they are not required to establish eligibility.

Additionally, we note that, in evaluating the second prong and whether the Petitioner is well positioned to advance his proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future

[2] A Petitioner is required to submit legible copies. *See generally* 7 *USCIS Policy Manual* A.4(C), https://www.uscis.gov/policy-manual ("Unless otherwise required by applicable regulations or form instructions, a legible photocopy of any other supporting document may be submitted.").

activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890. On remand, SCOPS should evaluate the evidence to determine whether the Petitioner established his eligibility under the second prong based upon these factors. For example, SCOPS may wish to consider whether the Petitioner has adequately explained and supported with evidence his model or plan for future activities, progress towards achieving the proposed endeavor, and the interest of potential customers, users, investors, or other relevant parties. SCOPS may also wish to consider whether the Petitioner has provided sufficient detail regarding his specific role and involvement in the projects outlined as part of his endeavor, such as his plans to expand the CAMEL framework, advance the Loong verification framework, and launch an integrated artificial intelligence (AI) agent toolkit.

Lastly, in analyzing the third prong and whether, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of a labor certification, USCIS considers, and SCOPS should consider, factors including the impracticality of obtaining a labor certification; the benefit to the United States from the individual's prospective contributions, even if other U.S. workers are also available; whether the national interest in the individual's contributions is sufficiently urgent; evidence that the individual's endeavor may lead to potential creation of jobs; and evidence that the individual is self-employed in a manner that generally does not adversely affect U.S. workers.

Under all three prongs, it remains the Petitioner's burden to demonstrate his eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375.

For the above reasons, we will withdraw SCOPS' decision and remand this matter for further consideration and completion of the record. 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.