U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37780589

Date: MAY 16, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a researcher in the field of hydrometeorology and artificial intelligence (AI) driven precipitation forecasting, 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 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.

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;

[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).

- 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

SCOPS determined the Petitioner to be qualified for EB-2 classification as an advanced degree professional because she submitted evidence of her Master of Science degree in civil engineering from [redacted]

SCOPS noted multiple instances in the petition where the Petitioner referenced being a "doctoral researcher" however the petition clearly indicated that the Petitioner was a student, working as a research assistant. SCOPS noted that the Petitioner became a Ph.D. "candidate" in March 2023. On appeal, the Petitioner claims that because she was offered a job as a "postdoctoral research assistant" effective February 28, 2025, on a full-time basis, it "means after completion of the PhD [sic]." There is an unresolved inconsistency regarding whether the Petitioner has earned a Ph.D. See Matter of Ho, 19 I&N Dec. 582, 591-92 (BIA 1988) (noting that "it is incumbent upon the petitioner to resolve the inconsistencies by independent objective evidence" and that "[a]ttempts to explain or reconcile the conflicting accounts, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice").

We agree that the Petitioner qualifies for EB-2 classification as an advanced degree professional on account of her Master of Science degree, but the Petitioner has not demonstrated that she has earned a Ph.D. Moreover, a Petitioner must establish eligibility at the time of filing, and a material change from the initially filed petition cannot be considered. 8 C.F.R. § 103.2(b)(12).

The only issue on appeal is whether the Petitioner qualifies for a waiver of the job offer requirement in the national interest.

The Petitioner described her proposed endeavor as continuing to develop AI driven precipitation forecasting to contribute to the development of sophisticated forecasting models with a specific focus on floods and river management. The Petitioner's proposed endeavor is to continue her educational research and fellowship in the engineering field of interdisciplinary studies, using AI data processing and hydrometeorology as she conducts research while completing her doctoral degree at [redacted]

We adopt and affirm the Director's 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"). SCOPS determined the Petitioner did not establish that the proposed endeavor would have any implications beyond the university or employer for which the Petitioner would work, for its clients, their employees. or any other individual or entity for which she would provide services. Thus, the Petitioner did not meet her burden of demonstrating her proposed endeavor rises to the level of national importance.

The Petitioner claims her proposed endeavor has national importance because she works on projects funded by NASA and the U.S. Department of Defense. She claims her research with the use of AI will contribute to global climate science and provide crucial insights for informed decision-making in biodiversity conservation, ecosystem management, and sustainable water resource planning in the face of changing climate conditions. The Petitioner has not submitted evidence documenting or supporting these claims.

In her personal statement, the Petitioner notes that her role in the NASA project is testing NASA's foundation model of weather for precipitation forecasts. She states that she is "involved in" other significant projects funded by the Department of Defense but does not identify specifically what her role is in these projects apart from playing a role, investigating, and actively contributing. Without more, the Petitioner has not shown that her role testing a model developed by another investigator or team rises to a level of national importance or that she is a named recipient of project funding or that she is a principal investigator.

We also acknowledge the Petitioner's teaching experience, receiving a best teaching award, and her aim to mentor and inspire the next generation of scientists. In Dhanasar we determined that the petitioner's teaching activities did not rise to the level of national importance because they would not impact his field more broadly. Id. at 893. In the same way teaching activities proposed by the petitioner in Dhanasar were not shown to have a broader impact on the field of STEM education, the Petitioner has not demonstrated that her proposed endeavor will benefit the entities beyond where the Petitioner is employed and/or their collaborators and has not shown her contribution would have broader implications in the field. Dhanasar at 893.

In sum, the record shows the Petitioner has worked as a researcher and tester on projects in a well-respected field. The evidence does not establish, however, the prospective impact of the Petitioner's proposed endeavor is indicative of national importance. Consequently, the Petitioner does not meet the first Dhanasar prong.

Because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's remaining appellate arguments. 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).

ORDER: The appeal is dismissed.