U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37319361

Date: MAY 19, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a Control Engineer, seeks second preference 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 EB-2 classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

SCOPS denied the petition, concluding the Petitioner had not established eligibility for 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. 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 SCOPS's decision and remand the matter for entry of a new decision.

I. LAW

To establish eligibility for a national interest waiver, petitioners must demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. In addition, petitioners must show the merit of 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 that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if:

- 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.

[1] *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

II. ANALYSIS

SCOPS found that the Petitioner qualifies as a member of the professions holding an advanced degree. Therefore, the sole issue to be determined in this appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

A petitioner must establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 376. In other words, a petitioner must show that what he claims is "more likely than not" or "probably" true. USCIS examines "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." Additionally, to determine whether a petitioner has met his burden under the preponderance standard, USCIS considers not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

1. Substantial Merit and National Importance

The first prong relates to the substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner's proposed endeavor is described in his personal letter as follows: ". . . to develop and optimize intelligent control and artificial intelligence approaches in order to enhance the safety, reliability, and efficiency of autonomous systems and modern power networks. To progress this endeavor, I will utilize my extensive experience with machine learning techniques, heuristic algorithms, and the modeling and development of fault diagnosis methods and tools." SCOPS determined that the Petitioner's proposed endeavor had substantial merit, and the record supports this conclusion. However, SCOPS concluded that the Petitioner's endeavor did not meet the criteria for national importance under *Dhanasar*.

On appeal, the Petitioner correctly observes that SCOPS provided an analysis of the proposed endeavor that went beyond that which was contemplated by *Dhanasar*. In *Dhanasar*, we stated that "[e]vidence that the endeavor has the potential to create a significant economic impact may be favorable but is not required, as an endeavor's merit may be established without immediate or quantifiable economic impact." *Dhanasar*, 26 I&N Dec. at 889. However, SCOPS posited that the proposed endeavor did not "address pressing national problems." But the national importance requirement does not require this rigid degree of urgency and may be met by showing by a preponderance of evidence that which has "the significant potential to broadly enhance societal welfare or cultural or artistic enrichment, or to contribute to the advancement of a valuable technology or field of study." (*See generally* 6 USCIS Policy Manual F.5(D)(1)). In addition, SCOPS determined that the proposed endeavor did "not singularly impact or address a significant national challenge," and that "the lack of direct relevance to national priorities diminishes the claim of national importance, as the evidence provided does not sufficiently demonstrate that these contributions align with the stringent requirements of the *Dhanasar* framework." Regarding the specifics of the proposed endeavor, SCOPS determined that the Petitioner's efforts to "develop technologies like power converters and renewable energy systems" were "broader enhancements within their fields rather than targeted initiatives addressing critical national needs." SCOPS further determined that the Petitioner's research on decentralized tuning of damping control systems for large-scale power grids primarily supported the efficiency of existing systems rather than addressing a critical national deficiency. As the Petitioner points out on appeal, SCOPS rejected the idea that the proposed endeavor

had national importance because it merely offered "broader enhancements" within the field, while simultaneously acknowledging that *Dhanasar* emphasized the "broader implications" of a proposed endeavor that has national or even global implications within a particular field. (*Id.*, quoting *Dhanasar*, at 890). Similarly, SCOPS stated that the proposed endeavor could be "potentially beneficial in the long term," but determined that it did not have a substantial and immediate impact on issues of national importance. However, *Dhanasar* considers the "potential prospective impact" of the proposed endeavor when considering its national importance. There is no specific requirement that the proposed endeavor be immediate in its impact. Below, SCOPS stated that the *Dhanasar* framework requires evidence that the Petitioner's proposed endeavor "will significantly benefit the nation." However, *Dhanasar* does not require this criterion because finding that while it may be favorable, it is not required "as an endeavor's merit may be established without immediate or quantifiable economic impact." (*Id,*. quoting *Dhanasar*, at 889).

On appeal, the Petitioner argues that SCOPS erred in disregarding evidence in the record and did not apply prong one of the *Dhanasar* framework correctly. Specifically, the Petitioner argues that his proposed endeavor implicates multiple CET fields as identified by the National Science & Technology Council with respect to national security, renewable energy generation and storage, autonomous systems and machine learning. Based on our de novo review of the record, we agree with the Petitioner that SCOPS improperly applied the prong one framework outlined in *Dhanasar*. On remand, SCOPS should analyze the entire record to determine whether it sufficiently demonstrates that the Petitioner's proposed endeavor has national importance, including the initially submitted documentation the evidence provided in the RFE response, and the arguments presented in the Petitioner's appeal brief. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor having significant potential on the broader implications for a field or region, generally may rise to the level of having national importance for the purpose of establishing eligibility for a national interest waiver. SCOPS should review the record to determine whether the Petitioner has demonstrated his proposed endeavor will have significant potential impacts in the field.

If SCOPS concludes that the Petitioner's documentation does not meet the national importance requirements of *Dhanasar's* first prong, the decision should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility.

2. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the petitioner. To determine whether a petitioner is well positioned to advance the proposed endeavor under *Dhanasar's* second prong, USCIS considers factors, including, but not limited to: the individual's education, skills, knowledge, and record of success in related efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Dhanasar at 890.*

We note that in evaluating the Petitioner's professional and academic background, SCOPS cited *Matter of New York State Dep't of Transp. (NYSDOT),* 22 I&N Dec. 215, 221 (Acting Assoc. Comm'r 1998) for the premise that the endeavor must have a significant impact beyond the academic sphere. Specifically, SCOPS noted that the Petitioner's work on "decentralizing tuning of dampening

controllers," and "AI-based control systems" are primarily rooted in research and published studies rather than real-world applications that could influence or drive industry-wide advancements. However, it was improper to rely on *NYSDOT* because it was vacated, and *Dhanasar* provided a new framework for adjudicating national interest waiver petitions. SCOPS acknowledged that the Petitioner's ideas are innovative but nonetheless concluded that they were rooted in academic research and have not been shown to translate into practical large-scale implementation or significant industry-wide adoption. However, *Dhanasar* does not require that the Petitioner prove that he has already substantially advanced his proposed endeavor, instead *Dhanasar* considers, among other factors, "knowledge and record of success in related or similar efforts." *Dhanasar*, at 890. On remand, SCOPS should analyze all the submitted evidence to determine whether the record sufficiently demonstrates the Petitioner is well positioned to advance the proposed endeavor. SCOPS should articulate the basis for finding whether the evidence shows or fails to show that he is well positioned to advance his endeavor.

3. Balancing Factors to Determine Waiver's Benefit to the United States

The third prong requires the petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. If SCOPS determines that the Petitioner's documentation does not meet this prong, the decision should address all of the Petitioner's arguments and evidence, and explain the relative decisional weight given to each balancing factor.

III. CONCLUSION

For the reasons discussed above, we are remanding the petition for SCOPS to consider anew whether the Petitioner qualifies for a national interest waiver as a matter of discretion. SCOPS should review the entire record and properly apply all three prongs of the *Dhanasar* analytical framework to determine if the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. SCOPS may request any additional evidence considered pertinent to the new determination.

ORDER: SCOPS's decision is withdrawn. The matter is remanded for the entry of a new decision.