U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38047970

Date: MAY 22, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a nanotechnology scientist and researcher in the field of renewable energy, seeks employment-based second preference (EB-2) immigrant classification as either 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).

SCOPS denied the petition, concluding that although the Petitioner had established his qualification for EB-2 classification as a member of the professions holding an advanced degree, he had not established that a waiver of the required job offer, and thus of the attached 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:

- 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.

In a document titled "Proposed Endeavor & Future Plans in the Field", the Petitioner describes his proposed endeavor as the advancement of "research into nano piezolelectric and renewable energy production using polymeric materials at both nano and macro scales in order to develop products that generate renewable electric energy for applications in industrial sensors, medical textiles and instruments, and rechargeable batteries." In an updated statement in the record, the Petitioner identifies several research projects that he intends to pursue, including the development of renewable energy harvesting devices, the integration of energy harvesting into medical textiles; a project that would enable the generation and storage of electrical energy from body movements; and the development of highly sensitive sensors for monitoring critical infrastructure, using the unique properties of piezoelectric materials to enhance safety and operational efficiency in industries such as oil and petrochemicals. The Petitioner further explains that he will continue "research focused on developing wearable textiles with inherently flexible nanocomposites", mak[ing] them "suitable for dynamic and comfortable medical wearables."

SCOPS denied the petition, concluding that although the Petitioner established that his proposed endeavor was of substantial merit, he had not demonstrated that it was of national importance and therefore had not satisfied the first prong of the *Dhanasar* analytic framework. SCOPS determined that Petitioner had not shown that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.[2]

The Petitioner asserts on appeal that he has established that he meets the first prong of the *Dhanasar* analytical framework. Upon de novo review, we agree. We will withdraw SCOPS' determination to the contrary.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

SCOPS concluded that the Petitioner had established the substantial merit of the proposed endeavor. We agree. To satisfy the national importance requirement, the Petitioner must demonstrate the "potential prospective impact" of his work. Here the record includes the Petitioner's statements indicating his intent to continue his research in the field of renewable energy with a focus on "improving energy capture from piezoelectric polymer by the effect of natural stretching movements on it by using material technologies" and to disseminate this research through publication in peer-reviewed journals and conference presentations. This is sufficient to show, by a preponderance of the evidence, that the benefit of his proposed research has broader implications for the field, as the results will be disseminated to others in the field through peer-reviewed journals and conferences.

[2] SCOPS did not reach the matter of whether the Petitioner satisfied the second and third prongs of the *Dhanasar* analytical framework.

The Petitioner has demonstrated his eligibility for EB-2 classification as an advanced-degree professional. Further, the record demonstrates that the Petitioner has established that the proposed endeavor satisfies the first prong of the *Dhanasar* analytical framework. He therefore has overcome the sole ground for SCOPS' dismissal. We will remand the matter to SCOPS for consideration of whether the record establishes the Petitioner's eligibility under *Dhanasar's* second and third prongs and whether he otherwise merits a national interest waiver as a matter of discretion.

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