U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38304417

Date: MAY 27, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a vice president in the department of Statistical Modeling and Development at a brokerage, investment advisor firm, 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 established he was an advanced degree professional, but did not demonstrate 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.*

[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 or that, on balance, it would be beneficial to the United States to waive the job offer requirements. On appeal, the Petitioner asserts that SCOPS did not adequately consider or discuss the relevant evidence in the record. 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).

The Petitioner states his proposed endeavor is to "develop innovative statistical models and methodologies for longitudinal, functional, and time-to-event data." In his updated personal statement submitted with his response to SCOPS' request for evidence (RFE), he describes his current ongoing research for his endeavor as: (1) developing shape-constrained functional data modeling and (2) advancing variable selection for high-dimensional correlated data with machine learning techniques. He indicates an intent to pursue this endeavor through his current employment, and additionally through independent research.

In finding the Petitioner did not meet *Dhanasar's* first prong, SCOPS determined that the Petitioner did not demonstrate that "the prospective impact of the proposed endeavor as a researcher in statistic methodologies rises to the level of national importance." SCOPS acknowledged the importance of the statistics field and the role it plays in implementing advanced strategies and methodologies. However, they found that the endeavor would primarily benefit the Petitioner and his prospective employers and would not sufficiently extend beyond them to impact the field or nation more broadly at a level consistent with national importance.

In making their determination, however, SCOPS did not specifically discuss any of the evidence submitted in support of this prong. The Petitioner argues below in his initial filing and RFE response, as well as on appeal, that he submitted sufficient documentation, including his personal statements and industry reports, demonstrating that his proposed endeavor is nationally important to the healthcare system by providing time-to-event data analysis, particularly for estimating survival rates, disease progression, and the effectiveness of novel treatments for diseases such as cancer. He also asserts that the evidence, including industry reports and support letters, shows that his plans to advance variable selection for high-dimensional correlated data with machine learning techniques would enhance market liquidity, reduce transaction costs, and improve transparency and stability throughout the financial market. The Petitioner correctly asserts that none of this evidence was discussed in the decision.

In *Dhanasar*, we stated that "[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.* at 889. Without a specific discussion of the evidence, it is not apparent whether SCOPS considered all the evidence in concluding that the endeavor would not have national or global implications, or otherwise rise to the level of national importance. Again, an officer must fully explain the reasons for denying a visa petition. *See* 8 C.F.R.

§ 103.3(a)(1)(i). While the evidence of record may ultimately be insufficient to demonstrate the Petitioner's eligibility under this prong, SCOPS did not adequately address the evidence and arguments submitted and, therefore, did not sufficiently explain the reasons for denial.

On remand, SCOPS should revisit the descriptions of the proposed endeavor, including the Petitioner's research projects, in his personal statements and other evidence of record. SCOPS should then examine the specific evidence in the record to determine the potential prospective impact of the proposed endeavor, including whether the evidence demonstrates that the Petitioner's endeavor to advance statistical models and methodologies would have broader, nationally important implications in, for example, the health and finance sectors as claimed. We note that, while the Petitioner asserts that his proposed endeavor should be viewed as distinct from his proposed employment, his planned employment may nevertheless inform both *Dhanasar's* first and second prongs. If the Petitioner plans to continue pursuing his proposed endeavor, in part, as a vice president at his firm as claimed in his initial filing, he would still have to demonstrate that the potential prospective impact of his work performed while in this position would rise to the level of national importance.

With regard to *Dhanasar's* second prong, to determine whether a petitioner is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual's education, skills, knowledge and record of success in related or similar 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.

SCOPS found that the Petitioner demonstrated he is well positioned to advance his proposed endeavor. However, the decision lacked any analysis explaining how they reached this conclusion. And, based on the record, we question whether the Petitioner has met his burden to show he satisfies this prong. *See Matter of Chawathe*, 25 I&N Dec. at 375 (stating that petitioners bear the burden of establishing their eligibility and under this standard we consider the quality, such as relevance and probative value, of the evidence, in addition to quantity). The record reflects that the Petitioner is currently employed full-time as a vice president at [redacted] While he repeatedly emphasized that his job is distinct from his proposed endeavor and claimed that the independent research portion of his endeavor "will not be tied to my job duties," the record is unclear as to how he specifically plans to pursue his proposed endeavor. We further note that the Petitioner concedes that "much of my work at [redacted] is proprietary and not typically published in publicly available journals" but asserts that "there are opportunities to adapt and publish certain aspects of my research using publicly available data." He has not offered further information explaining how he plans to pursue his endeavor in this context or presented other corroborating evidence to support his statements.

Also, the record reflects that the Petitioner has published a total of five papers, only one of which was first authored. While he claims two of his articles obtained enough citations to rank among the top 10% most-cited articles published in mathematics for their respective years, we observe that the articles themselves appear related to research in the medical and biology fields. It does not appear that the Petitioner's comparison of his Google Scholar citation data in mathematics, therefore, accurately reflects the field. Likewise, while the Petitioner claims his past article published in 2020 was funded by the [redacted] he has not presented evidence showing his current work has support, such as research funding, from relevant entities claiming interest in his specific endeavor.

Based on the record, the evidence does not appear to establish the Petitioner is well positioned to pursue the proposed endeavor. But, without a specific discussion of the evidence, it is unclear how SCOPS reached their favorable conclusion on this prong.

Accordingly, we withdraw SCOPS' decision and remand this matter for further consideration and a new first-line adjudication. On remand, SCOPS should review the entire record and determine whether the Petitioner has established eligibility under each of the three *Dhanasar* prongs. 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.