U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40258442

Date: NOV. 20, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Advanced Degree)

The Petitioner seeks to employ the Beneficiary as an engineer under the second-preference, immigrant classification for members of the professions with advanced degrees or their equivalents. Immigration and Nationality Act (the Act) section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish that the Beneficiary was eligible for the requested immigrant classification. 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).

In Part 2 of the Form I-140 petition, the Petitioner checked box 1.d, requesting classification of the Beneficiary as a member of the professions with an advanced degree. However, in a request for evidence and in its decision, SCOPS incorrectly reviewed the petition as a request for classification as an outstanding researcher or professor under section 203(b)(1)(B) of the Act, 8 U.S.C. § 1153(b)(1)(B).

Because SCOPS applied the incorrect classification to the petition, we will withdraw the decision and remand the matter for entry of a new decision. On remand, SCOPS must review the petition under the requested second-preference, immigrant classification for members of the professions with advanced degrees or their equivalents and apply the correct statutory and regulatory framework set forth at section 203(b)(2)(A) of the Act and 8 C.F.R. § 204.5(k). SCOPS may request any additional evidence considered pertinent to the new determination. As such, we express no opinion regarding the ultimate resolution of this case on remand.

ORDER: The decision is withdrawn.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