U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39397900

Date: OCT. 01, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a research engineer, 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).

SCOPS denied the petition, concluding although the Petitioner established his eligibility for EB-2 classification as an advanced degree professional, the record did not establish that that a waiver of the required job offer, and thus of a 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.

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:

[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 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.

The Petitioner, a research engineer, holds a master of science degree in biomedical engineering from [redacted]. With his initial petition, the Petitioner submitted a personal statement describing his proposed endeavor as "to design and develop state-of-the-art mathematical machine learning and engineering approaches for multimodal artificial intelligence and computer vision algorithms, thereby improving a wide range of applications such as general object detection and recognition, self-driving vehicles, robotics, and private security." The Petitioner indicated that he intended to pursue his doctor of philosophy at [redacted] and then to pursue a research engineer position with Meta Platforms, Inc.

SCOPS determined that the Petitioner had established his eligibility for EB-2 classification as a member of the professions holding an advanced degree. SCOPS acknowledged the evidence submitted by the Petitioner in the record below. It then conducted an analysis of the first and third prongs of the *Dhanasar* analytical framework and concluded that the Petitioner had not established a waiver of the requirement of a job offer, and thus a labor certification would be in the national interest.[2]

On appeal, the Petitioner asserts that he has established that a waiver of the job offer requirement, and thus of a labor certification, is in the national interest, as a matter of discretion. He contends, however, that SCOPS erroneously reached its contrary conclusion because SCOPS referenced upon a name and proposed endeavor different from his own in its analysis of the first and third prongs of the *Dhanasar* analytical framework.

Upon review, SCOPS' analysis of the *Dhanasar* analytical prongs appears to reference a different name and a different proposed endeavor from that of the Petitioner's. We will remand the matter to SCOPS to consider the record in its entirety to determine whether the Petitioner has met each prong of the *Dhanasar* analytical framework and has shown that a waiver of the job offer requirement, and thus a labor certification, is in the national interest 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.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.

[2] SCOPS concluded that the Petitioner met the second prong of the *Dhanasar* analytical framework.