U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39384243

Date: OCT. 2, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a doctoral student in pharmacology, 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 that the record did not establish that the Petitioner had established the national importance of his proposed endeavor. SCOPS also stated that consideration of a second potential ground for denial, concerning whether the United States would benefit, on balance, from waiving the labor certification requirement, "is moot" because of the first stated ground for denial. The matter is now before us on appeal under 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.

II. ANALYSIS

When he filed the petition in November 2024, the Petitioner was in the United States as an F-1 nonimmigrant student, studying for a doctorate at [redacted]. His doctoral studies included a research fellowship at the [redacted]

The Petitioner's master's degree in pharmaceutical sciences from [redacted] University [redacted] qualifies as an advanced degree, and his intended occupation qualifies as a profession.

The Petitioner described his proposed endeavor as follows:

> My proposed endeavor is to develop innovative bioanalytical assays to efficiently characterize the clinical pharmacology profile of complex biological products targeting postural arterial hypertension (PAH) and neuroendocrinal tumors (NETs). . . . The incidence, prevalence, and mortality rate of neuroendocrine tumors have continued to rise significantly over the last two decades. . . .

The Petitioner described two drug candidates, ADCT-701 and ZM-A001, that "are both in early phase clinical study stage." He stated:

> My proposed endeavor is thus significant as it aims to develop innovative, adaptable bioanalytical assays, which will be used to characterize the clinical pharmacokinetics/ pharmacology profile of these two complex biologics. This knowledge is important for understanding the fate (i.e. absorption, distribution, and elimination) of ADCT-701 and ZM-A001. . . . Without these steps, the drug development process will be stalled. Therefore, drug developers and regulators (i.e. FDA) alike rely heavily on bioanalytical assays to make informed decisions during drug development, underscoring the significance of my contributions.

The record indicates that the proposed endeavor, as described by the Petitioner, is essentially the subject of his research fellowship at [redacted], as described by the [redacted] senior investigator acting as the Petitioner's mentor. The Petitioner adds:

> I will continue to disseminate the outcomes of my research endeavors at the [redacted] across the scientific community through peer-reviewed publications in important scientific journals, presentations at prominent conferences focusing on pharmacology, analytical method development, and drug discovery.

A. Substantial Merit and National Importance

The first prong of the *Dhanasar* national interest test, 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.*

We agree with SCOPS that the proposed endeavor has substantial merit. We disagree, however, with SCOPS' conclusion that the Petitioner had not established the broader impact necessary to show the national importance of the proposed endeavor. The impact of the Petitioner's work is not limited to a narrow group of patients, students, or customers who would interact directly with him. The Petitioner intends to disseminate his work through presentations and publications, and the methods he intends to develop could be used by the pharmaceutical industry in developing and testing the drugs specified in the Petitioner's proposed endeavor and potentially other drugs as well. All of these factors show a broader impact of his endeavor to reach the level of national importance.

Nevertheless, we agree with SCOPS' broader conclusion that the Petitioner has not established eligibility for the national interest waiver. In doing so, we disagree with SCOPS' conclusion that the Petitioner has established that he is well positioned to advance the proposed endeavor. We will discuss this issue below.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether they are well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their 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. *Id.*

SCOPS issued a request for evidence (RFE), stating that the Petitioner's initial submission offered "generalities about the self-petitioner's duties and responsibilities" but lacked specific, persuasive evidence and information to establish that the Petitioner is well positioned to advance the proposed endeavor. After the Petitioner responded to the RFE, SCOPS concluded that the Petitioner had met his burden of proof, citing the Petitioner's "education, successes, certifications, intentions/proposal, experience as an experienced medical scientist/scholar, letters of recommendation, recognition, letters of Intent, etc.," without further elaboration.

In concluding that the petitioner in *Matter of Dhanasar* was well positioned to advance his proposed endeavor, we cited his "multiple graduate degrees in relevant fields"; "detailed expert letters describing U.S. Government interest and investment in his research"; and "documentation that the petitioner played a significant role in projects funded by [federal] grants." *Id.* at 892-93. By these metrics, we cannot agree with SCOPS' conclusion that the Petitioner has presented sufficient evidence to conclude that he is well positioned to advance the proposed endeavor.

When considering evidence of the Petitioner's past work and recognition in his field, we bear in mind that a petitioner cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his field of expertise.[2] *See Matter of Dhanasar*, 26 I&N Dec. at 886, n.3. Therefore, consideration of whether a petitioner is well-positioned to advance the proposed endeavor is not limited to the question of whether the petitioner is qualified to work in a given field, or even whether that petitioner has a significantly high degree of expertise in a given field. The national interest waiver requires a higher level of evidence.

To meet the second prong of the national interest test, the petitioner in *Dhanasar* established factors such as "the significance of his role in research projects, as well as the sustained interest of and funding from government entities." *Id.* at 893. In the case before us, the record as it now stands does not include evidence that reaches a similar level.

The Petitioner here claimed "extensive experience" and cited his "educational background, consisting of three degrees related to pharmacology." We acknowledge the Petitioner's two master's degrees, but it remains that he was still a doctoral student at the time he filed the petition. His experience is largely limited to work he performed in conjunction with his still-ongoing education. The Petitioner did not establish that this level of experience would generally be considered "extensive" in his field.

The Petitioner has documented only a small number of published and presented works. The Petitioner submitted only partial copies of these works. Because the copies are incomplete, they demonstrate the existence of the published materials but the Petitioner has not explained their relevance to his specific proposed endeavor. The submitted materials all predate his doctoral studies and [redacted] fellowship, and the submitted portions do not mention ADCT-701 or ZM-A001 or, more generally, development of bioanalytical assays that form the core of the Petitioner's proposed endeavor.

The Petitioner's progress toward achieving the proposed endeavor consisted of his first ten months of doctoral study. Prior to beginning the Ph.D. program at [redacted] University, the Petitioner had pursued pharmacological research, but the record does not show that this pre-doctoral work – either academic or professional – related directly to the specific areas of research at the core of the proposed endeavor.

The record does not show that the pharmaceutical industry and research community have taken an interest in the Petitioner's work to a degree that would warrant the special benefit of a national interest waiver. The Petitioner has submitted letters from various academic figures in his field. These individuals praised the Petitioner's skills and discussed the overall importance of his area of study, but emphasized the future promise of his work rather than an established record of success. Also, the letters do not show that the Petitioner's work has attracted significant attention beyond the research groups in which he has worked. The Petitioner referred to a letter from a professor at [redacted] as an "Independent Advisory Opinion," but that professor stated in her letter that the Petitioner "came to my laboratory to work for a short period."

The Petitioner's field of pharmacology falls within the category of STEM (science, technology, engineering and mathematics). The *USCIS Policy Manual* recognizes specific evidentiary

[2] Taken together, the regulations at 8 C.F.R. § 204.5(k)(2) and (4)(i) indicate that aliens with a degree of expertise significantly above that ordinarily encountered are typically subject to the labor certification requirement.

considerations relating to STEM degrees and fields, especially in focused critical and emerging technologies or other STEM areas important to U.S. competitiveness or national security. 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual.

The *USCIS Policy Manual* further states:

> For the second [*Dhanasar*] prong . . . , the person's education and skillset are relevant to whether the person is well positioned to advance the endeavor. USCIS considers an advanced degree, particularly a Doctor of Philosophy (Ph.D.), in a STEM field tied to the proposed endeavor and related to work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness or national security, an especially positive factor to be considered along with other evidence for purposes of the assessment under the second prong.

Id. As noted above, however, the Petitioner had not yet completed his doctoral studies at the time of filing.

Critical and emerging technologies are those that are critical to U.S. national security, including military defense and the economy. *Id.* at n.92. Initially, the Petitioner did not cite provisions relating to STEM fields or critical and emerging technologies. In response to the RFE, the Petitioner stated that his:

> work in developing bioanalytical assays and pharmacokinetic evaluations for therapies targeting rare and life-threatening diseases falls under the Biotechnologies category, which encompasses advancements in medical and health-related technologies. This area is explicitly highlighted in the critical and emerging technologies list as critical to national security and innovation.

The Petitioner submitted a copy of the February 2024 Critical and Emerging Technologies List Update, which does not corroborate the above assertions. The seven technologies[3] listed under the heading "Biotechnologies" do not include "bioanalytical assays" or "pharmacokinetic evaluations," and the Petitioner did not specify which of the seven listed entries purports to "explicitly highlight[]" his research specialty.

The Petitioner's response to the RFE cited "his prestigious fellowship at the [redacted] his scholarly publications and citations, his professional memberships, grants for his research, and evidence of his leadership, trainings, and volunteer recognitions" (exhibit numbers omitted). But the Petitioner did not explain how these factors establish that he is well positioned to advance the proposed endeavor. For instance, the Petitioner's fellowship at [redacted] involves the type of research that the Petitioner described in his proposed endeavor. But there is no evidence that he initiated the [redacted] research project associated with his fellowship, rather than joined an existing project. Funding documented in the record consists of academic scholarships, stipends, and nominal travel awards.

[3] The seven listed categories are: "Novel synthetic biology including nucleic acid, genome, epigenome, and protein synthesis and engineering, including design tools"; "Multi-omics and other biometrology, bioinformatics, computational biology, predictive modeling, and analytical tools for functional phenotypes"; "Engineering of sub-cellular, multicellular, and multi-scale systems"; "Cell-free systems and technologies"; "Engineering of viral and viral delivery systems"; "Biotic/abiotic interfaces"; and "Biomanufacturing and bioprocessing technologies."

These materials reflect on the Petitioner's competence and his progress toward earning his doctorate, but the Petitioner has not shown that they distinguish him in his field at a level commensurate with the petitioner in *Dhanasar*.

The record requires further development before we can conclude that the Petitioner is well positioned to advance his specific proposed endeavor. For this reason, we will remand the matter to SCOPS for further consideration and action.

C. Whether on Balance a Waiver is Beneficial

The third prong requires a 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. *Matter of Dhanasar*, 26 I&N Dec. at 890-91. In performing this analysis, we may evaluate factors such as: whether, in light of the nature of the individual's qualifications or the proposed endeavor, it would be impractical either for them to secure a job offer or to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from their contributions; and whether the national interest in their contributions is sufficiently urgent to warrant forgoing the labor certification process. *Id.* In each case, the factor(s) considered must, taken together, establish 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. *Id.* at 891.

SCOPS stated that the Petitioner had not satisfied the third *Dhanasar* prong, but did not discuss the issue in any detail. Instead, SCOPS stated that the issue "is moot" because the Petitioner had not satisfied all the earlier prongs. Because we are remanding the matter for further consideration of the second prong, as SCOPS has not yet addressed the merits of the third prong, the third prong is not yet ripe for appellate review.

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