U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40100279

Date: OCT. 31, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 the record did not establish 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:

- 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.

II. ANALYSIS

SCOPS concluded the Petitioner qualifies for the EB-2 classification as an advanced degree professional. SCOPS also concluded that the proposed endeavor has substantial merit and that the Petitioner is well-positioned to advance it. SCOPS denied the petition, however, finding that the Petitioner did not establish the proposed endeavor's national importance or that, on balance, waiving the job offer requirement would benefit the United States. On appeal, the Petitioner contends that he has established eligibility for a national interest waiver and that SCOPS' decision was unclear, contained factual errors, and did not properly analyze the evidence in the record. Upon de novo review, we conclude for the reasons discussed below that the decision does not sufficiently analyze the record based upon the framework we first explicated in *Matter of Dhanasar*, and that a remand of the matter is therefore appropriate.

SCOPS "summarized [the Petitioner's proposed endeavor] as an assistant professor of mathematics at the University of Utah or similar employer." But the record does not support SCOPS' summation. Whilst the Petitioner did express a nascent intention to pursue an assistant professor of mathematics position, preferably at the University of Utah due to his personal and professional links, the record does not support that such a position or the search for such a position is his proposed endeavor. The Petitioner states that his proposed endeavor will research "intersection theory and birational geometry in order to improve understanding of positivity theory in higher codimensional subvarieties." In a supplemental statement he submitted in response to SCOPS' request for evidence (RFE), the Petitioner further described how his proposed endeavor would "strengthen the links between algebraic geometry and machine learning." In *Dhanasar*, we concluded the first prong, substantial merit and national importance, focused on the specific endeavor the noncitizen proposed to undertake. The endeavor's merit could be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. And in determining whether the proposed endeavor has national importance, we consider its potential prospective impact. In *Dhanasar* we also said that "we look for broader implications." *See Dhanasar*, 26 I&N Dec. at 889. Broader implications are not necessarily evaluated from a narrow frame of reference such as geography; implications within a field which demonstrate a national or even international influence of broader scale can rise to a level of national importance. And many proposed endeavors that aim to advance STEM technologies and research, whether in academic or industry settings, not only have substantial merit in relation to U.S. science and technology interests but also have sufficiently broad potential implications to demonstrate national importance. *See generally* 6 *USCIS Policy Manual*, F.5(D)(2), https://www.uscis.gov/policy-manual.

As SCOPS evaluates the substantial merit and national importance of the Petitioner's proposed endeavor, it may elect to consider if the evidence in the record supports the aim of the Petitioner's endeavor to advance mathematics research as he conducts "research on the positivity of higher codimensional subvarieties and the gonality of curves" developing modern algebraic geometry and if

that work has national or even global impact or sufficiently broad potential implications from the publication of its results such that it triggers matters of national importance.

Furthermore, SCOPS did not specify the basis and rationale for its conclusion of the Petitioner's position to advance his proposed endeavor. So, we withdraw SCOPS' determination so that it can evaluate the evidence in the record to determine if the Petitioner is well positioned to advance his proposed endeavor. SCOPS may consider factors including but not limited to the Petitioner's education, skills, knowledge, and record of success in related or similar efforts. A model or plan for future activities, progress towards achieving the proposed endeavor, and the interest of potential customers, users, investors, or other relevant entities or individuals are also key considerations. Not every individual who has conducted original research and published findings will be found to be well-positioned to advance their proposed endeavor. SCOPS may opt to examine the Petitioner's prior research projects to determine if they are related or similar efforts to his proposed endeavor in algebraic geometry, and specifically the positivity of higher codimensional subvarieties and the gonality of curves. SCOPS may also evaluate the evidence in record consisting of the Petitioner's bachelor's and graduate education's applicability to research in his field of endeavor. And SCOPS could examine the independent advisory opinion letters submitted by the Petitioner to evaluate if they offer meaningful detail in an adequately material, relevant, and probative matter to establish the Petitioner's expertise in algebraic geometry, his past record of success in his current and other related fields. Moreover, SCOPS may choose to further examine if the evidence supports that the rate at which the Petitioner's work has been cited is high relative to others in the field. SCOPS may also choose to consider if the evidence in the record reflects the Petitioner has a cognizable plan or model for their endeavor's future bearing in mind that an offer of employment is not a requirement for approval, nor is the lack of a job offer a negative factor in analyzing the evidence the Petitioner submits into the record.

On remand, the Director may evaluate whether the Petitioner has demonstrated 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. And the Director could consider the impracticality of a labor certification, the benefit to the U.S. of a petitioner's contributions, the urgency of a petitioner's contributions to the national interest, the capacity for job creation, and any adverse effects on U.S. workers when conducting the balancing of the national interests of waiving the requirements of a job offer and therefore a labor certification.

III. CONCLUSION

For the foregoing reasons, the matter will be remanded to SCOPS. SCOPS may request any additional evidence considered pertinent to rendering a decision under the foregoing analysis, and 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.