U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39354769

Date: SEP. 22, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a postdoctoral researcher in the field of quantum information science, 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 although the Petitioner qualifies as a member of the professions holding an advanced degree, he did not establish 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). While we conduct de novo review on appeal, *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that a remand is warranted in this case because SCOPS' decision does not adequately explain the specific reasons for denial and is therefore insufficient for review. Accordingly, 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 qualify as a member of professions holding an advanced degree or an alien of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) 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

SCOPS determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. We agree with this determination, based on evidence in the record that the Petitioner has a master's degree in chemistry from [redacted] and a Ph.D. in chemical physics from the [redacted]

The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement is in the national interest. SCOPS determined that the Petitioner established the substantial merit of his proposed endeavor but did not demonstrate the national importance of the endeavor, that he is well-positioned to advance it, or that, on balance, it would benefit the United States to waive the job offer requirement.

On appeal, the Petitioner contends that SCOPS's decision is "legally insufficient and procedurally flawed." We agree with the Petitioner's assertions that SCOPS failed to apply relevant USCIS Policy Guidance applicable to persons with advanced degrees in STEM fields, disregarded the explanations and evidence the Petitioner submitted in response to a request for evidence (RFE), and did not sufficiently analyze the record based on the framework set forth in *Matter of Dhanasar*. An officer's written decision must explain the specific reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(1)(i); *Cf. 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). Here, SCOPS' decision did not satisfy this requirement. Accordingly, we will withdraw the decision and remand the matter for further review and entry of a new decision consistent with the following discussion.

A. Substantial Merit and National Importance

The first prong of the *Dhanasar* framework, 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.* SCOPS determined that the Petitioner demonstrated the substantial merit of his proposed endeavor but not its national importance.

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake" and its potential prospective impact. *Dhanasar,* 26 I&N Dec. at 889. In *Dhanasar*, we emphasized that "we look for broader implications" of the specific proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as certain improved manufacturing processes or medical advances." *Id.* We also stated that "[a]n endeavor that has significant potential to employ

U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. We will also consider whether the endeavor has significant potential to contribute to the advancement of a valuable technology or field of study. *Id.* at 892.

With respect to national importance, SCOPS, noting the Petitioner's immediate plans to work as a postdoctoral scholar at [redacted] concluded that there was "no documentary evidence demonstrating a significant potential to employ U.S. workers" and no other documented "positive economic effects, particularly in an economically depressed area."

On appeal, the Petitioner asserts that SCOPS mischaracterized the nature of his proposed endeavor, noting that he intends "to develop and implement resource-efficient quantum algorithms for practically useful quantum computing," which he describes as "an independent, goal-driven contribution aimed at addressing fundamental challenges . . . in a highly strategic STEM field." The Petitioner further contends that SCOPS overemphasized the potential prospective economic impact of his proposed endeavor and did not sufficiently consider its potential contribution to the advancement of valuable technology and other broader implications in his scientific field.

Upon review, we agree that SCOPS overemphasized whether the Petitioner's proposed endeavor would have substantial positive economic benefits and failed to address any other relevant factors discussed in *Matter of Dhanasar* in conducting the first prong analysis. Because of this narrow focus, SCOPS did not sufficiently consider the evidence and arguments the Petitioner presented, including his contention that his research endeavor has national importance based on its potential prospective impact on science, technology and critical and emerging STEM technologies. On remand, SCOPS should re-evaluate the Petitioner's evidence considering all factors relevant to *Dhanasar*'s first prong, as well as USCIS policy guidance applicable to persons with advanced degrees in STEM fields. *See generally* 6 *USCIS Policy Manual* F.5(D)(4), https://www.uscis.gov/policy-manual. In considering whether the Petitioner demonstrated the national importance of the proposed endeavor, SCOPS should focus on what the Petitioner will be doing rather than the specific occupation.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Matter of Dhanasar*, 26 I&N Dec. 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.* In addition, for cases involving petitioners with STEM degrees and fields, there are additional evidentiary considerations. *See generally* 6 *USCIS Policy Manual supra* at 5.D(4). This guidance states that 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" is considered an especially positive factor under the second prong. *Id.*

On appeal, the Petitioner emphasizes that he provided extensive evidence relevant to *Dhanasar*'s second prong in response to SCOPS' RFE and that SCOPS failed to address any of that evidence in

its decision, noting that the decision merely "copy-pasted boilerplate text from the original RFE without changing a word."

A comparison of SCOPS' RFE and final decision supports the Petitioner's claim that the second prong discussion is identical in both documents. Although the decision includes a list of the evidentiary exhibits the Petitioner provided with his RFE response, the second prong discussion includes no references to that evidence. Further, as noted by the Petitioner, the RFE's discussion of the second prong consists mainly of boilerplate language, with no reference to any case-specific evidence included with the Petitioner's initial submission.

Because SCOPS did not sufficiently address the evidence related to *Dhanasar*'s second prong, the Petitioner was not provided has a fair opportunity to address or contest the decision on appeal. *See* 8 C.F.R. § 103.3(a)(1)(i),(iii) (providing that the decision must explain the specific reasons for denial and notify the affected party of appeal rights); *cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal). On remand, SCOPS should evaluate the Petitioner's evidence and determine whether he met his burden to demonstrate by a preponderance of the evidence, that he is well-positioned to advance the proposed endeavor. In doing so, SCOPS should consider all factors set forth in *Matter of Dhanasar* and any STEM-related USCIS policy guidance applicable to the facts presented in this case.

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. In addition, as stated above, SCOPS must evaluate the evidence with consideration to USCIS Policy Manual guidance applicable to persons with advanced degrees in STEM fields. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(4).[2]

In the denial decision, SCOPS concluded that the Petitioner did not demonstrate it would be beneficial to waive the requirement of the job offer, and thus of the labor certification, consistent with the third prong of *Dhanasar*. However, SCOPS did not adequately explain how the evidence in the record led

[2] This guidance explains that the following combination of facts may be a strong positive factor under *Dhanasar*'s third prong, including: the person possesses an advanced STEM degree, particularly a Ph.D.; the person will be engaged in work furthering a critical and emerging technology or other STEM area important to U.S. competitiveness; and the person is well positioned to advance the proposed STEM endeavor of national importance. *Id.* In addition, the benefit of granting a national interest waiver is especially weighty where the endeavor has the potential to support U.S. national security or enhance U.S. economic competitiveness, or when the petition is supported by letters from interested U.S. government agencies. *Id.*

to that determination and, again, did not appear to consider policy guidance applicable to individuals with advanced degrees in STEM fields. On remand, SCOPS' new decision should address the Petitioner's arguments and evidence and explain the relative decisional weight given to each balancing factor.

III. CONCLUSION

For the reasons discussed, the matter will be remanded to SCOPS to determine if the Petitioner has established eligibility for a national interest waiver. SCOPS should review the entire record in considering whether the Petitioner has provided sufficient detail regarding his proposed endeavor and whether he has established eligibility under each of the three prongs of the *Dhanasar* framework. SCOPS may also request any additional evidence considered pertinent to the new determination prior to issuing a new decision.

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