U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40803358

Date: JAN. 13, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks second preference immigrant classification (EB-2) for the Beneficiary, a SOC system level test product development engineer, 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 EB-2 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 Beneficiary qualified for classification as an advanced degree professional and his endeavor has substantial merit, the Petitioner had not established that the Beneficiary's proposed endeavor is of national importance, or that, on balance, 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). 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 dismiss the appeal.

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

SCOPS determined that the Beneficiary qualifies as a member of the professions holding an advanced degree since the Beneficiary obtained a master's degree in computer engineering. As such, we agree with SCOPS' determination. SCOPS also determined the Petitioner established the substantial merit of the Beneficiary's proposed endeavor but not its national importance. Upon review, for the reasons discussed below, we agree that the Petitioner has not sufficiently demonstrated the national importance of the Beneficiary's proposed endeavor to establish eligibility under the first prong of the *Dhanasar* analytical framework. While we may not address each piece of evidence individually, we have reviewed and considered each one.

On appeal, the Petitioner reiterates arguments concerning the purported national importance of the proposed endeavor. The Petitioner alleges that SCOPS applied an incorrect standard of review in this case. Except where a different standard is specified by law, the "preponderance of the evidence" is the standard of proof governing immigration benefit requests. *See Matter of Chawathe*, 25 I&N Dec. at 375.

The Petitioner stated the Beneficiary is "working to advance System Level Test (SLT) methodologies within semiconductor manufacturing." It further noted that the endeavor "involves innovating and optimizing System Level Test (SLT) programs from New Product Introduction (NPI) through to High Volume Manufacturing (HVM) stages for System on Chip (SOC) architectures." The Petitioner also explained that the Beneficiary's proposed endeavor's national importance is due to the recent shortage of semiconductor chips which made it more prevalent for the need to make chips within the United States to meet the demand, enhance innovation, and boost economic sales. The Petitioner contends that the Beneficiary's proposed endeavor has national importance since it will not only improve the Petitioner's product reliability and manufacturing efficiency but also have "broader implications for the semiconductor industry by establishing more efficient and reliable testing standards that can be adopted across various platforms," and will strengthen the semiconductor ecosystem and lead to "technological advancement, national security, and maintaining the country's leadership in high-tech manufacturing."

To evaluate whether the proposed endeavor satisfies the national importance requirement we focus on the specific endeavor that the individual proposes to undertake and look to evidence documenting its "potential prospective impact." *Matter of Dhanasar*, 26 I&N Dec. at 889. 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.

Although the Beneficiary's role as a SOC system level test product development engineer is important in developing and testing semiconductor products for his employer, the Petitioner has not

demonstrated that the economic implications and technological advancements resulting from the company's operations would be directly attributable to the Beneficiary's particular role. The issue here is not the broader implications of the company's innovations and products or the utilization of its products by government or industry, but rather the potential prospective impact of the Beneficiary's specific proposed work as a SOC system level test product development engineer, or the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889.

The record contains articles about U.S. government initiatives in the semiconductors industry and the CHIPS and Science Act which seeks to bolster the semiconductor industry. Although the Beneficiary's work may be in an important field, the Petitioner must still establish the specific proposed endeavor has national importance as it is presented in the *Dhanasar* framework. While the Beneficiary's work may be in the semiconductor field, that alone does not mean it rises to the level of national importance. The proposed endeavor itself must still meet the level of prospective impact set forth in *Dhanasar*. In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. We recognize the value and importance of the industry; however, working in an important field is insufficient to establish the national importance of the proposed endeavor. Here, the Petitioner improperly relies upon the importance of the industry to establish the national importance of the Beneficiary's proposed endeavor. Although this evidence provides background information on the industry itself, and government efforts to support the industry; without sufficient documentary evidence of the specific proposed endeavor's broader impact on the industry, the Beneficiary's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

The Petitioner submitted an expert opinion letter authored by [redacted] distinguished teaching professor in the engineering technology department at [redacted] State. However, in analyzing the national importance, the expert opinion letter largely focuses on the importance of the field and does not include any persuasive and corroborating information about the Beneficiary's proposed endeavor and its impact rising to the level of national importance. The opinion states that the Beneficiary's proposed endeavor will be of "great interest to the nation" in order to "sustain the economic growth driven by semiconductor and microelectronic devices, maintain the United States' leadership as a titan in the tech sector, promote our national security through reducing reliance on foreign devices, and improve the availability of these devices through the domestic production of them," but does not provide any specific innovation or progress in technologies directly attributable to the Beneficiary.

The expert letter also stated that the Beneficiary's proposed endeavor falls in line with the "Advanced Competing" category of the National Science and Technology Council's list of Critical and Emerging Technologies (CET). The author states that the Beneficiary will "directly contribute to national security, technological leadership, technology supply chain, and international sphere of influence of the United States." However, while we acknowledge the list includes topics that are relevant to the Beneficiary's endeavor, the purpose of the CET list is to "ensure that science and technology policy decisions and programs are consistent with the President's stated goals across the diverse entities that make up the Federal research and development enterprise." The Beneficiary's proposed endeavor is to work at a for-profit entity and is therefore not the focus of the CET's list that focuses on federal research.

As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l*, Inc., 19 I&N Dec. 791, 795 (Comm'r 1988). However, we are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought and the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, the expert opinion letter is of little probative value as it conflates the importance of the field overall with the national importance of the Beneficiary's specific endeavor.

As a comparison, the petitioner in *Dhanasar* demonstrated that he conducted research and development in the field of air and space propulsion, more specifically, hypersonic propulsion systems involving speeds above Mach 5, and he had developed a novel method for accurately calculating hypersonic airflow. *Matter of Dhanasar*, 26 I&N Dec. at 891-92. In addition, we gave significant weight to "probative expert letters from individuals holding senior positions in academia, government, and industry that describe the importance of hypersonic propulsion research as it relates to U.S. strategic interests" and "detailed expert letters describing U.S. Government interest" in Dr. Dhanasar's specific research. *Id.* at 892. Here, the Petitioner has not provided similar evidence, such as the type of expert opinion evidence or letters from government entities detailing how his endeavor impacts a matter that is a subject of national initiatives, despite claiming that that the Beneficiary's contributions and area of focus are broadly critical to U.S. policy objectives and his talent in semiconductor manufacturing is in demand.

While USCIS recognizes specific evidentiary considerations relating to the fields of science, technology, engineering, and mathematics (STEM), "the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." *See generally* 6 *USCIS Policy Manual* F.5(D)(2), https: //www.uscis.gov/policy-manual. We acknowledge the overall value of the advancement of semiconductor technology and attracting qualified professionals in related careers, and strengthening our nation's technology, particularly technology recognized as critical and emerging, but their overall significance does not establish the national importance of the Beneficiary's proposed endeavor in particular. *See id.*

Here, the Beneficiary's proposed endeavor relates to fields identified as critical and emerging technologies. However, in all cases, including those involving STEM-focused endeavors, it is the Petitioner's burden to demonstrate that the endeavor has both substantial merit and national importance. In *Dhanasar*, we highlighted that while the field of STEM education may be of national importance, the duties of a STEM teacher in a classroom would not necessarily be of national importance because the impact that would flow from the teacher's activities would not sufficiently extend beyond the students sitting in their classroom. *See* 26 I&N Dec. at 893 (stating "[w]hile STEM teaching has substantial merit in relation to U.S. educational interests, the record does not indicate by a preponderance of the evidence that the petitioner would be engaged in activities that would impact the field of STEM education more broadly.")

In *Dhanasar,* we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Matter of Dhanasar*, 26 I&N Dec. at 893. Here, the Petitioner did not sufficiently demonstrate how the Beneficiary's proposed endeavor stands to extend beyond his employer, its business partners, and its clientele to impact the semiconductor industry and other related fields more broadly at a level commensurate with national importance. Nor has the Petitioner shown that the Beneficiary's particular work or other future

projects offer original innovations that contribute to advancements in the field. Accordingly, the Beneficiary's proposed work at the petitioning company does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

Likewise, the record lacks adequate evidentiary support for the Petitioner's claims that his proposed endeavor would have impacts on the U.S. economy, societal welfare, or other U.S. interests at a level commensurate with national importance. The Petitioner cannot establish the national importance of the Beneficiary's specific proposed endeavor by relying on his employer's expansive customer base, large market share, or leadership position in an industry that is important to U.S. economic or technology interests. Benefits to a specific employer alone, even an employer with a national footprint, are not sufficiently relevant to the question of whether a person's endeavor has national importance. Therefore, the Petitioner cannot meet his burden by showing the broader implications of the company's innovations in product design and reliability and the widespread use of its products. At issue is whether a petitioner can demonstrate that his or her own individual endeavor stands to have broader implications, such as for a field, a region, or the public at large. *See generally* 6 *USCIS Policy Manual*, supra at F.5(D)(3).

Because the documentation in the record does not sufficiently establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated the Beneficiary's eligibility for a national interest waiver and further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established that the Beneficiary is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

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.