U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43219278

Date: JUNE 4, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a semiconductor technology researcher, 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).

USCIS denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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). 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 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

USCIS concluded that the Petitioner qualified as a member of the professions holding an advanced degree, but that he had not satisfied the first and third prongs set forth in the *Dhanasar* analytical framework.[2] For the reasons discussed below, we withdraw USCIS' determinations and remand this matter for entry of a new decision.

At the time of filing, the Petitioner indicated that he was serving as a Senior Researcher at the [redacted] in South Korea. With respect to his proposed endeavor, the Petitioner stated:

> I am proposing to research high-performance packaging and chip-level security technologies in the United States. My research will center on three interrelated areas: (1) glass-based interposers and Through-Glass Via (TGV) technologies for high-speed 2.5D/3D integration, (2) Antenna-in-Package (AiP) technology for mmWave RF integration, and (3) Physical Unclonable Function (PUF) technology for hardware security. Collectively, my research aims to expand fundamental knowledge while developing innovative approaches to address . . . challenges in advanced chip design, supporting both the reshoring of semiconductor manufacturing and the protection of critical infrastructure.

A. Substantial Merit and National Importance of the Proposed Endeavor

The first prong, 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.*

USCIS determined under the first prong of the *Dhanasar* framework that while the record supported the substantial merit of the Petitioner's proposed endeavor, he did not establish that his endeavor was of national importance. USCIS acknowledged the Petitioner's statement that he has recently registered multiple patents and that their impact "is not confined to a single product or application but extends to broader technology platforms and design methodologies within the semiconductor ecosystem." USCIS' discussion of the national importance of the Petitioner's proposed endeavor, however, did not identify or analyze any specific item of evidence in the record.

[2] The Petitioner received a Ph.D. in Electrical Engineering (2012) from the [redacted]

The Petitioner argues on appeal that USCIS' decision "relied on generalized statements that [his] proposed endeavor does not rise to the level of national importance" without addressing the specific evidence he submitted for *Dhanasar*'s first prong. We agree with the Petitioner that USCIS' decision did not meaningfully evaluate the evidence in the record. An officer must fully explain the reasons for denying a visa petition in order to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See* 8 C.F.R. § 103.3(a)(i); *see also 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, USCIS' broad statements concerning the record did not sufficiently identify specific deficiencies leading to its conclusion that the Petitioner's proposed endeavor was not of national importance.

On remand, USCIS should thoroughly review the record to determine whether the national importance of the Petitioner's proposed endeavor to research high-performance packaging and chip-level security technologies is supported by the submitted evidence. For example, the Petitioner presented letters of support from professors at U.S. universities (Dr. Y-K-Y- and Dr. M-P-M-) as well as industry experts (Dr. M-P-T-, J-J-L-, and J-K-) discussing the national importance of his endeavor. In performing its review, if USCIS determines the Petitioner's endeavor's national importance is not demonstrated by the record, it should provide an analysis of the evidence which fully explains the deficiencies in the record.

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.*

USCIS concluded without analysis that the Petitioner is well positioned to advance his proposed endeavor. We acknowledge that the Petitioner's Ph.D. and proposed endeavor are in a STEM field and that this is an especially positive factor in determining his positioning to advance his endeavor,[3] but this is only one factor of many to be considered under the second prong of the *Dhanasar* analysis.

On remand, USCIS should analyze the submitted evidence to determine if the Petitioner's education, skills, knowledge and record of success in related or similar efforts; model or plan for future activities; progress towards achieving the proposed endeavor; and the interest of relevant entities or individuals are sufficient to render him well positioned to advance his proposed endeavor. For instance, USCIS should consider the Petitioner's letters of support, patents, funding as a principal investigator, future plan, research publications and conferences, and citation evidence in evaluating his eligibility under *Dhanasar's* second prong. If USCIS concludes that the Petitioner's documentation does not meet the requirements of *Dhanasar*'s second prong, it should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility.

[3] *See generally* 6 *USCIS Policy Manual* F.5(D)(4), www.uscis.gov/policy-manual.

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. *Id.* 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 denying the petition, USCIS concluded the Petitioner had not shown that it would be impractical for an employer to obtain a labor certification and that he presents benefits to the United States through his proposed endeavor that outweigh those inherent in the labor certification process. Regarding these conclusions, USCIS' decision did not specifically address the Petitioner's arguments and evidence submitted at time of initial filing and in response to USCIS' request for evidence. We agree with the Petitioner's contention on appeal that USCIS' decision did not discuss his specific evidence or arguments for *Dhanasar*'s third prong. Without a proper evaluation of the Petitioner's evidence relating to the factors identified in *Dhanasar*'s third prong, we cannot properly assess whether USCIS' determination for this prong was in error. On remand, if USCIS concludes that the Petitioner's documentation does not meet this prong, the decision should properly address the Petitioner's arguments and evidence, and explain the relative decisional weight given to each balancing factor.

III. CONCLUSION

We are therefore remanding the petition for USCIS to properly assess and apply all three prongs of the *Dhanasar* analytical framework to determine if the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

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