U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37338937

Date: MAR. 25, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an integrated circuit design engineer specializing in semiconductors, 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).

The Director of the Texas Service Center denied the petition, concluding that the record did not establish the Petitioner's eligibility for a national interest waiver. 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.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(K)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

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;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

The Petitioner is an integrated circuit engineer specializing in semiconductors whose proposed endeavor is to work in this field in the United States. The Director determined that the Petitioner established his eligibility for the EB-2 classification as a member of the professions holding an advanced degree. However, the Director concluded that the Petitioner did not establish eligibility for any of the three prongs in the *Dhanasar* framework and therefore is not eligible for a national interest waiver as a matter of discretion. On appeal, the Petitioner contends, in part, that the Director's conclusion that the proposed endeavor lacked national importance, "overlook[ed] the potential impact of [the Petitioner's] specific technological innovations in integrated circuit (IC) design on U.S. national interests." We conclude the record does not establish the Petitioner's proposed endeavor is of national importance and therefore he is not eligible for a national interest waiver as a matter of discretion.

A. EB-2 Classification

The Director determined that the Petitioner qualified for classification as a member of the professions holding an advanced degree as he provided evidence of a master of science degree from [redacted] As discussed above, an advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(k)(2). The record contains a diploma and information about the foreign university where his degree was earned. We note that the record does not contain sufficient documentation to evaluate the equivalency of the foreign degree to a U.S. advanced degree such as official academic records or an independent credentials evaluation. Therefore, the Petitioner has not submitted relevant, probative, and credible evidence, to establish eligibility as a member of the professions holding an advanced degree. *See Matter of Chawathe,* 25 I&N Dec. at 376. However, as the record does not establish by a preponderance of the evidence that the Petitioner otherwise merits a national interest waiver as a matter of discretion, we will reserve the issue of the Petitioner's eligibility for the EB-2 classification.[2]

[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).

[2] *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).

B. National Interest Wavier

1. Substantial Merit

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. The Petitioner's proposed endeavor is to continue his work in the United States as an integrated circuit engineer specializing in semiconductors. He highlights that his field of electrical and electronics engineering is a STEM field, and that semiconductors and microelectronics are listed as a "Critical and Emerging Technology" that could impact national security. In addition, the Petitioner submits evidence of the CHIPS and Science Act stating that the U.S. government supports the development of semiconductors and scientific fields to promote competitiveness and innovation. The record contains industry reports and articles on the semiconductor industry and U.S. government initiatives in support of the industry. We conclude that the proposed endeavor has substantial merit.

2. National Importance

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* The Petitioner asserts that the Director incorrectly concluded his proposed endeavor lacks national importance. He contends his proposed endeavor directly impacts U.S. technological leadership in critical sectors such as healthcare, communications, and national security. He further states that his proposed endeavor will have economic benefits to the United States as it will enhance competitiveness in the global semiconductor market. As discussed above, a petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. The details regarding the Petitioner's proposed endeavor and its potential prospective impact come from the Petitioner's statements and the record lacks sufficient evidence to support the Petitioner's assertions. It is insufficient to claim an endeavor has national importance or will create a broad impact without providing evidence to corroborate such claims. Without sufficient evidence to corroborate the stated technological and economic impacts, the record does not establish that the benefits resulting from the Petitioner's endeavor would have "national or even global implications within a particular field" or "significant potential to employ U.S. workers or other substantial positive economic effects" contemplated by *Dhanasar. Dhanasar*, 26 I&N Dec 889-890.

The record contains articles about U.S. government initiatives in the fields of electrical engineering, semiconductors, and the CHIPS and Science Act which seeks to bolster the semiconductor industry. Further, the Petitioner contends that "semiconductor technology is classified as a critical national security technology, and thus [his] work in this area meets the criteria of 'national importance.'" Although the Petitioner's work may be in an important field, the Petitioner must still establish his specific proposed endeavor has national importance as it is presented in the *Dhanasar* framework. While his 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 his 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 Petitioner's proposed endeavor does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

Additionally, the record contains articles about the need for proficient design professionals in this field. However, a shortage of qualified professionals does not render the work of an individual nationally important under the *Dhanasar* decision. Here, the Petitioner has not established that his specific proposed endeavor stands to broadly impact or significantly reduce the claimed national shortage. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process. Therefore, the Petitioner has not established his proposed endeavor meets the "national importance" element of the first prong of the *Dhanasar* framework. While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. As the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established by a preponderance of the evidence that he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.