U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40282794

Date: NOV. 04, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, [redacted] seeks second preference immigrant classification (EB-2) for the Beneficiary, a senior hardware 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 endeavor is of national importance, that he is well positioned to advance the proposed endeavor, 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:

- 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

The Petitioner is a [redacted]-based corporation specializing in semiconductors, software, and services for wireless technology. The Beneficiary's endeavor is to work for the Petitioner as a senior hardware engineer and proposes "to design and develop comprehensive test scenarios and optimization solutions to validate hardware functionality and performance, focusing on advanced Memory built-In Self-Test (MBIST), Automatic Test Pattern Generation (ATPG), IDDQ (Quiescent Current) testing and analysis, and Wafter Level Chip (WLC) testing for high-performance semiconductor systems, particularly targeting modem and mobile technologies utility 5nm and smaller technology nodes."

The Beneficiary obtained a master's degree in electrical engineering from [redacted] in April 2018. According to the Beneficiary's resume, he was employed as "Applications Engineer, II" at [redacted] from August 2018 to March 2020, developing "software on the [redacted] suite to meet the client requirements," and was hired by the Petitioner in July 2020 as "Product and Test Engineer" to work with the test engineering teams, "bring up test flows for MBIST, ATPG, DC, IDDQ, and WLC," and "maximize production yield and minimize test-time." The Petitioner offered the position of "Senior Hardware Engineer" to the Beneficiary in November 2024 and filed the instant petition in December 2024.

With the initial filing, the Petitioner provided a letter from the principal engineer and manager of the [redacted] team. The letter indicated that the Beneficiary "plays a pivotal role in developing and optimizing test processes for complex integrated circuits" and his work on MBIST and ATPG has enhanced the reliability and efficiency of [the Petitioner's] products." Although the letter concluded by stating that the Beneficiary's skills as engineering is "critical to the advancement of the semiconductor field in the United States," the record did not corroborate that the Beneficiary's work would broadly impact the field outside of his employer and its clients; instead, the fact sheets, studies, and reports in the record generally discussed the importance of the semiconductor industry, the wireless industry, and 5G economy, as well as information on the use of artificial intelligence, providing an overview of the relevant industries in which the Beneficiary proposed to work.

SCOPS issued a request for evidence (RFE), stating that although the Beneficiary will offer "advanced technical skills and specialized knowledge" to the Petitioner, but the record lacked sufficient information and evidence to demonstrate the prospective impact of the proposed endeavor rising to

[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 level of national importance contemplated by *Dhanasar*. In response to the RFE, the Petitioner argued that "[the Beneficiary's] employment with [redacted] increases the reach and consequential impact of his endeavor, as well as increasing its chances of success" and because the Petitioner partners with a wide range of semiconductor chip manufacturers, the techniques that the Beneficiary develop through improved manufacturing and testing "are directly disseminated throughout the industry"; therefore, the Beneficiary's work not just benefit the Petitioner but improves semiconductor manufacturing and testing processes throughout the entire industry. However, we agree with SCOPS that the Petitioner did not demonstrate that the Beneficiary's endeavor is of national importance under the first prong of the *Dhanasar* analytical framework, for the reasons discussed below.

To evaluate whether the proposed endeavor satisfies the national importance requirement we focus on the specific endeavor that the foreign national proposes to undertake and look to evidence documenting its "potential prospective impact." *Id.* An endeavor may have national importance because "it has national or even global implications within a particular field, such as those resulting from 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.

The Petitioner claimed that the Beneficiary will utilize his "specialized expertise and STEM-based degree in Electrical Engineering to directly foster progress in Semiconductors and Microelectronics, a STEM area important to U.S. competitiveness and national security." The Petitioner also claimed that the Beneficiary's endeavor has potential significant economic impacts in the United States because [redacted] is a major job creator in the United States – employing over 50,000 workers nationally." The Petitioner further claimed that the proposed endeavor will impact the entire field of the semiconductor industry, because semiconductors "also known as microchips, chips, and integrated circuits (ICs)" provides advancement in "communications, computing, healthcare, military systems, transportation, clean energy, and countless other applications" and "critical to powering virtually every sector of the U.S. economy and national security."

Although the Beneficiary's role as a hardware engineer is important in developing and testing semiconductor products and wireless services to 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 as a hardware engineer. 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 hardware engineer, or the "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889.

The Petitioner submitted an expert opinion from a professor of electrical and computer engineering. 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 is "a key player in the advancement of next-generation semiconductor technologies, contributing significantly to the U.S.'s position as a global leader in technological innovation," but does not provide any specific innovation or progress in technologies directly

attributable to the Beneficiary. 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 and packing technologies 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 Petitioner's proposed endeavor in particular. *See id.*

The Petitioner also contends that SCOPS' finding on national importance misapplied *Dhanasar* because the prospective impact "need not be certain" or "even be probable" but "what is required ultimately by *Matter of Dhanasar* is that the broader interests of the United States will more likely than not be served." However, under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 376; *see also Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). 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 as a hardware engineer at the petitioning company does not meet the "national importance" element of the first prong of the *Dhanasar* framework.

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.