



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 28488512

Date: SEP. 12, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, a mechanical engineer, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree and/or an individual of exceptional ability, 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 Petitioner did not establish that a waiver of the job offer requirement, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider.

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). Upon review, we will dismiss the motions.

## I. ANALYSIS

### A. Motion to Reopen

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits several work experience letters that he previously submitted with his original filing. While the regulation does not define the term “new facts,” we generally interpret the phrase to mean facts that are material to the issues raised on motion and have not been previously submitted in the proceeding, which includes the original petition and any subsequent motion or appeal. Because these letters have been previously submitted, they are not “new facts,” and they do not meet the requirements of a motion to reopen.

## B. Motion to Reconsider

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner contests the correctness of our prior decision, asserting that it is based upon an incomplete reading and review of the record. He does not support his assertions with citations to any pertinent precedent decisions, or relevant statutes, regulations, or policies, instead arguing that our decision disregarded “obvious and intuitive prepositions and syllogism(s)” and did not individually consider each document in the record.

We first note that in determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. The reference letters noted by the Petitioner in his motion describe his role in previous engineering projects in which he has participated, and are therefore pertinent to the second prong of the *Dhanasar* framework, in which we consider an individual’s experience related to the proposed endeavor, among other factors, to determine if they are well positioned to advance that endeavor. The letters do not discuss how his specific proposed endeavor is potentially of national importance.

Turning to the other materials which the Petitioner asserts were disregarded, as we noted in our previous decision, this evidence focuses on different aspects of the overall oil and gas industry. For example, abstracts from *The Handbook of Liquified Natural Gas* and *Project Management in the Oil and Gas Industry* talk about the importance of project management to the success of infrastructure projects in the oil and gas industry. The Petitioner asserts that his proposed role in infrastructure projects, together with the overall importance of the oil and gas industry to the U.S. economy and workforce as shown by other evidence in the record, leads to the conclusion that his proposed endeavor is of national importance. However, while we do not question the potential importance of the Petitioner’s proposed activities to the completion of individual construction or repair projects, this evidence does not establish that the impact of his work on those projects will extend beyond the benefits to his employer and its clients. Like the teaching activities proposed by the petitioner in *Dhanasar*, the Petitioner has not shown that his proposed activities would affect the oil and gas industry more broadly.

## II. CONCLUSION

The Petitioner has not submitted evidence of new facts, and therefore does not meet the requirements of a motion to reopen. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motions will be dismissed. 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.