



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

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

In Re: 19646843

Date: JAN. 13, 2022

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a mathematics teacher, seeks second preference 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 EB-2 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 qualified for classification as a member of the professions holding an advanced degree, but that she had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The Petitioner appealed the matter to us, and we summarily dismissed the appeal pursuant to 8 C.F.R. § 103.3(a)(1)(v). We then dismissed two subsequently filed combined motions to reopen and to reconsider. The matter is again before us on a motion to reopen. On motion, the Petitioner submits a brief and additional evidence.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon review, we will dismiss the motion to reopen.

## I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

## II. ANALYSIS

By regulation, the scope of a motion is limited to "the prior decision." 8 C.F.R. § 103.5(a)(1)(i). Accordingly, we examine any new facts to the extent that they pertain to our prior dismissal of the Petitioner's second combined motion to reopen and motion to reconsider.

As noted above, the Petitioner's appeal was summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v) because she "fail[ed] to identify specifically any erroneous conclusion of law or statement of fact." In

our dismissal of the Petitioner's first combined motion to reopen and motion to reconsider, we explained that the Petitioner did "not demonstrate how the evidence provided on motion address[ed] the stated grounds for summary dismissal" or that "our findings were in error." We further indicated that if, "[f]or example, [] the Petitioner had shown that an appellate brief was submitted within thirty days after filing her appeal, and that we erred by missing or disregarding that brief, then there would be grounds to reopen the proceeding." We then dismissed her second combined motion to reopen and motion to reconsider because the Petitioner did "not provide new facts related to our prior decision or any new documentary evidence" and did "not refer to any legal authority to demonstrate that we erred in denying her prior motion."

In the current motion, the Petitioner again fails to address our prior decision(s) and focuses on her qualifications and passion for teaching. However, before we address the merits of the petition, the Petitioner must overcome our prior dismissals and the basis for summarily dismissing her appeal. She has not done so here. Consequently, the present motion to reopen must be dismissed.

### III. CONCLUSION

The Petitioner has not established relevant new facts that would warrant reopening of the proceedings. We, therefore, have no basis for reopening our prior decision. The Petitioner's underlying petition remains denied.

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