



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

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

In Re: 20254827

Date: MAR. 17, 2022

Motion on Administrative Appeals Office Decision

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

The Petitioner, an urban planning and environmental policy researcher, 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 Nebraska Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but that the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed the subsequent appeal, concluding that although the proposed endeavor has both substantial merit and national importance, the record does not establish the Petitioner is well-positioned to advance the proposed endeavor. We reserved the issue of whether, on balance, it would be beneficial for the United States to waive the requirements of a job offer and thus of a labor certification. On motion to reopen, the Petitioner asserts that she is well-positioned to advance the proposed endeavor.

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

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We do not require the evidence of a "new fact" to have been previously unavailable or undiscoverable. Instead, "new facts" are facts that are relevant to the issue(s) raised on motion and that have not been previously submitted in the proceeding, which includes the original application. Reasserting previously stated facts or resubmitting previously provided evidence does not constitute "new facts."

The extent of the Petitioner's motion to reopen submission, other than U.S. Citizenship and Immigration Services forms and the filing fee, was a one-page cover letter and a copy of our prior decision. The Petitioner did not specifically state the new facts to be provided in the reopened proceeding, as required by 8 C.F.R. § 103.5(a)(2). Instead, the Petitioner generally asserted, "I am filing a motion to reopen the decision of the Administrative Appeals Office [(AAO)]. I will be

providing additional evidence to the [AAO] within 30 days of the filing of this Form I-290B to show that I am well-positioned to advance my proposed endeavor.” However, 8 C.F.R. § 103.5(a)(2) does not provide for the submission of additional evidence after filing a Form I-290B.

We note that the Petitioner subsequently submitted a one-page letter from a professor of urban planning and environmental policy at [redacted] University, and a one-page letter from the assistant project manager of the [redacted] Flood Control District in Texas, to support the motion to reopen. However, neither letter specifically states a new fact to be provided in the reopened proceeding; therefore, even if the Petitioner had submitted the supporting documentary evidence with the motion to reopen, the evidence still would not satisfy the requirements at 8 C.F.R. § 103.5(a)(2).

We will dismiss the motion because it does not meet the requirements of a motion to reopen under 8 C.F.R. § 103.5(a)(2). *See* 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.