



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

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 25820484

Date: MAR. 06, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, an application manager, seeks second preference immigrant classification as an individual of exceptional ability in the sciences, arts or business, 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 had not established eligibility for a national interest waiver under the Dhanasar framework. We dismissed the subsequent appeal, concluding that the evidence did not establish the national importance of the proposed endeavor. The matter is now before us on a motion to reopen. The Petitioner continues to assert he is eligible for a national interest waiver and submits a brief with additional documents in support. 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 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). The regulation at 8 C.F.R. § 103.5(a)(1)(i) limits our authority to reopen to instances where the petitioner has shown "proper cause" for that action. The scope of a motion is limited to "the prior decision." *Id.* To merit reopening, a petitioner must not only meet the formal filing requirements (such as submission of a properly completed Form I 290B, Notice of Appeal or Motion, with the correct fee), but also show proper cause for granting the motion. We cannot grant a motion that does not meet applicable requirements. See 8 C.F.R. § 103.5(a)(4).

## II. ANALYSIS

The issue before us is whether the Petitioner has submitted new facts to warrant reopening. We therefore incorporate our prior decision by reference and will repeat only certain facts and evidence as necessary to address the Petitioner's claims on motion.

Motions for the reopening of immigration proceedings are disfavored for the same reasons as are petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. *INS v. Doherty*, 502

U.S. 314, 323, (1992) (citing *INS v. Abudu*, 485 U.S. 94, 108 (1988)); see also *Selimi v. Ashcroft*, 360 F.3d 736, 739 (7th Cir. 2004). There is a strong public interest in bringing proceedings to a close as promptly as is consistent with giving both parties a fair opportunity to develop and present their respective cases. *INS v. Abudu*, 485 at 107.

Based on its discretion, USCIS “has some latitude in deciding when to reopen a case” and “should have the right to be restrictive.” *Id.* at 108. Granting motions too freely could permit endless delay when foreign nationals continuously produce new facts to establish eligibility, which could result in needlessly wasting time attending to filing requests. See generally *INS v. Abudu*, 485 U.S. at 108. The new facts must possess such significance that, “if proceedings . . . were reopened, with all the attendant delays, the new evidence offered would likely change the result in the case.” *Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992); see also *Maatougui v. Holder*, 738 F.3d 1230, 1239–40 (10th Cir. 2013). Therefore, a party seeking to reopen a proceeding bears a “heavy burden.” *INS v. Abudu*, 485 at 110.

On motion, the Petitioner presents a brief and an additional statement reemphasizing his professional qualifications and the importance of the information technology (IT) field. He highlights some aspects of his proposed endeavor but does not address the shortcomings we identified in our prior decision. To support his assertion that the proposed endeavor has national importance, the Petitioner submitted research statistics on the cost of data breaches and a document he wrote about improving password management algorithms for enhanced security. These documents demonstrate the varied applicability and importance of the IT field.

The Petitioner also provided four additional letters of recommendation. The letters of recommendation do not offer sufficient detail about the Petitioner’s proposed endeavor and why it is nationally important. Instead, as with the previous letters of recommendation, the authors discuss topics such as the Petitioner’s personal and professional qualifications, the results he achieved for various organizations, how he performed well in past projects, the value of his past academic work, and the importance of the IT field. As we previously explained, the Petitioner’s experience, academics, and personal qualities relate to the second prong of the Dhanasar framework, whereas the issue here is the Petitioner’s eligibility under the first prong. Furthermore, we already explained that “the field in which the Petitioner proposes to work is indeed important; however, this is insufficient in itself to establish the national importance of the proposed endeavor.” Accordingly, the additional evidence the Petitioner provides on motion does not overcome the reasoning underlying our prior decision. Therefore, the Petitioner has not shown proper cause for reopening the proceedings.

To support a finding that the proposed endeavor has national importance, the Petitioner continues to rely upon (1) his qualifications and (2) the importance of the IT field. On motion, he submits documentation that expands upon the evidence in these two areas. As our prior decision already explained the deficiencies in this type of evidence, the additional documentation cannot be considered new. Accordingly, the documents do not meet the requirements of a motion to reopen as set forth at 8 C.F.R. § 103.5(a)(2). For this additional reason, the Petitioner has not shown proper cause for reopening the proceedings.

### III. CONCLUSION

For the reasons discussed, the evidence provided in support of the motion to reopen does not overcome the grounds underlying our prior decision and does not meet the requirements of a motion to reopen. Therefore, the motion must be dismissed.

ORDER: The motion to reopen is dismissed.