U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42776240

Date: MAY 18, 2026

Motion on Administrative Appeals Office Decision

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

The Petitioner is a mechanical engineer seeking employment-based second preference (EB-2) 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 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

SCOPS denied the petition, concluding that the record did not establish that a waiver of the required job offer, and thus of a labor certification, would be in the national interest. We dismissed a subsequent appeal. In our decision, we informed the Petitioner that we do not discuss each submission individually, but we review and consider all evidence prior to determining the merits of the appeal. Here, we acknowledged the Petitioner's submission of academic records, personal statements, expert opinion and recommendation letters, as well as relevant industry reports and articles and we discussed his endeavor to advance the development of speed modification and control systems for advanced driver assistance systems (ADAS) and automated driving systems (ADS), which he has pursued during his employment with [redacted]. We determined, however, that the Petitioner did not provide adequate corroborating evidence demonstrating that the proposed endeavor would offer broad and measurable implications such as enhancing U.S. societal welfare or benefits for the U.S. economy or the transportation field.

We also determined that the recommendation letters from [redacted] did not sufficiently explain how the impact from the Petitioner's projects would extend beyond the company and its clients to influence the field of endeavor. And we questioned how the Petitioner would pursue his endeavor outside the scope of his role at [redacted] and whether the endeavor is independent of [redacted] own objectives. Lastly, while we acknowledged the significance of strengthening our nation's technology, we did not consider the proposed endeavor to be potentially impactful on technological advancement in the transportation field on a scale that is consistent with having national importance.

The matter is now before us on a combined motion 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 combined motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (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 email communications showing that he became a voting member of SAE's "ORAD Behaviors and Maneuvers Task Force" in January 2026.[1] However, the affected party has the burden of proof to establish eligibility for the requested benefit *at the time of filing* the benefit request and continuing until the final adjudication. 8 C.F.R. § 103.2(b)(1); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971) (providing that "Congress did not intend that a petition that was properly denied because the beneficiary was not at that time qualified be subsequently approved at a future date when the beneficiary may become qualified under a new set of facts."). Here, the petition was filed in March 2025, and the Petitioner did not become a member of SAE until January 2026, thus indicating that the membership materialized approximately 10 months after the petition was filed does not support the Petitioner's eligibility for a national interest waiver.

Likewise, the Petitioner provided promotional material about [redacted] 2026 [redacted] that was published in November 2025 and thus was also created after this petition's filing date. Accordingly, the promotional material does not offer a new fact showing the Petitioner's eligibility.

The Petitioner also provides a support letter from [redacted] owner and president of [redacted] who listed his prior experience in the transportation and automotive industry, including positions at [redacted] and [redacted] and stated that he became acquainted with the Petitioner "through his [the Petitioner's] participation in [redacted] development activities." Mr. [redacted] discussed and reiterated statistics the Petitioner provided in his previously submitted crash prevention impact analysis and economic impact analysis, stating that he "reviewed the [Petitioner's] calculations and f[ou]nd the methodology to be sound, the data sources to be appropriate." Although Mr. [redacted] opinion is new in the sense that it had not been previously submitted, it does not constitute a new fact demonstrating the Petitioner's eligibility.

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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (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. He asserts that we did not address "substantial evidence," such as a county-level economic analysis quantifying the costs of

[1] The Petitioner's response letter to SCOPS' request for evidence states that '[redacted]' is an acronym that stands for [redacted]." On motion, the Petitioner has provided email communications from [redacted] whose email address – [redacted] – indicates that he works for [redacted] in some capacity, but the record does not contain official documentation, such as a membership certificate, memorializing the Petitioner's membership with [redacted].

automobile crashes in "Persistent Poverty Counties," and he argues that his projects will save over $10 million "in economic cost" and over $50 million "in comprehensive costs."

In our prior decision, we acknowledged the Petitioner's submission of motor vehicle traffic crash data and red-light-running statistics. While we found the evidence "generally supportive," we determined that the Petitioner did not offer "concrete examples" of his endeavor's potential for broad and measurable implications. Furthermore, the record lacks evidence that savings from the above-listed costs are attributable to [redacted] or more importantly that they are attributable to the proposed endeavor. Likewise, although the Petitioner highlights his calculations of crash prevention of fatalities, injuries, and property damage, he has not established that the prevention effects are readily attributable to [redacted] the Petitioner's employer. And while the Petitioner points to a published patent as evidence that he has impacted the automotive industry, he has not established that he, rather than his employer, owns the intellectual property he has invented. As such, the Petitioner has not established that the impact of his invention will extend beyond his employer and the proprietors of [redacted] vehicles.

The Petitioner also objects to our finding that his endeavor is inseparable from his employment with [redacted] arguing that he "pursued the same endeavor . . . across three independent institutions." However, it is unclear how the Petitioner's prior employment with [redacted] and [redacted] or his practical training in an academic setting demonstrates that the impact from his endeavor would extend beyond these employers and academic settings. Thus, while the Petitioner argues that he could pursue his endeavor "at any automaker," he has not established that the impact of the endeavor would extend beyond the scope of the specific automaker and that automaker's clientele. As stated in our prior decision, the Petitioner has not established that his proposed endeavor has the potential to broadly impact the United States or the transportation industry on a scale that is commensurate with having national importance.

It is worth noting that in his initial letter of support the Petitioner stated that he would pursue his endeavor "through my employment at [redacted]" which prompted us to question how he would pursue his endeavor outside the scope of his role with [redacted] and whether his endeavor would be proprietary to his employer. On motion, the Petitioner has not adequately addressed these concerns. As stated above, despite his discussion of a published patent, the Petitioner has not established that he owns the intellectual property he has invented.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. 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 motion 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.

NOTICE: 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.