U.S. Citizenship and Immigration Services

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

In Re: 43028484

Date: MAY 28, 2026

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks 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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish she qualifies as an advanced degree professional or that a waiver of the job offer, 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). By regulation, our review on motion is limited to "the prior decision." 8 C.F.R. § 103.5(a)(1)(i). We must dismiss any motion that does not satisfy the relevant motion requirements. 8 C.F.R. § 103.5(a)(4). Upon review, we will dismiss the Petitioner's motion.

## I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Reasserting previously stated facts or resubmitting previously provided evidence does not constitute "new facts."

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).

The scope of any motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). Thus, our analysis for these combined motions is limited to the following: (1) whether the Petitioner establishes that the dismissal of the previous combined motions was based on an incorrect application of law or policy; or (2) whether the Petitioner presents a new fact, supported by evidence, that shows proper cause to reopen our decision on the previous combined

motions. 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). Motions for the reopening or reconsideration of immigration proceedings are disfavored for the same reasons as petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. *See INS v. Doherty*, 502 U.S. 314, 323 (1992) (citing *INS v. Abudu*, 485 U.S. 94 (1988)). A party seeking to reopen a proceeding bears a "heavy burden." *See INS v. Abudu*, 485 U.S. at 110.

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree.[1] 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

In determining whether a petitioner merits a discretionary waiver of the job offer requirement "in the national interest," *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as matter of discretion,[2] grant a national interest waiver if the petitioner demonstrates that the proposed endeavor has both substantial merit and national importance; the individual is well-positioned to advance their proposed endeavor; and on balance, waiving the job offer requirement would benefit the United States. *Id.*

## II. ANALYSIS

The Petitioner proposes to continue working as a researcher specializing in mathematical theory research and its practical applications in electrical engineering.

As noted above, SCOPS denied the approval of this petition, concluding the Petitioner did not qualify for the underlying EB-2 immigrant classification as a member of the professions holding an advanced degree or for the national interest waiver. We dismissed the appeal affirming SCOPS' determination that the Petitioner did not establish her eligibility as an advanced degree professional. We reserved our opinion on whether she met the three prongs of the analytical framework set forth *Dhanasar*. *See INS v. Bagamasbad,* 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make "purely advisory findings" and decisions unnecessary to the ultimate decision). We incorporate our prior decisions by reference and will repeat only certain facts and evidence as necessary to address the Petitioner's claims on motion.

[1] Profession shall include, but not be limited to, architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

[2] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

A. Motion to Reopen

For the underlying EB-2 classification, the Petitioner claims she is an advanced degree professional based on her master's degree in information and communication engineering from [redacted] being the foreign equivalent above that of a U.S. bachelor's degree. *See* 8 C.F.R. § 204.5(k)(3). In our appeal decision, we determined she did not establish her eligibility because she did not provide a copy of an official academic record for the degree with which she asserts eligibility for the EB-2 classification, as required by the regulation at 8 C.F.R. § 204.5(k)(3).

On motion, the Petitioner submits new evidence to support her claims, including a foreign language document with an English translation of her scholastic record for her master's degree coursework at [redacted] Considering the new evidence and evidence in the record, we conclude that the Petitioner has established eligibility for the EB-2 classification as a member of the professions holding an advanced degree based on her foreign master's degree being the equivalent above that of a U.S. bachelor's degree. *See* 8 C.F.R. § 204.5(k)(3).

While the new evidence demonstrates that the Petitioner is an advanced degree professional pursuant to 8 C.F.R. § 204.5(k)(3), we will not grant the motion since the Petitioner has not demonstrated eligibility for the requested benefit, as discussed below.

B. Motion to Reconsider

On motion, the Petitioner requests that we reconsider SCOPS' denial, asserting that SCOPS did not fully consider the evidence in the record which she claims establishes her eligibility for the national interest waiver. Because the Petitioner has established eligibility for the underlying EB-2 classification and our prior decision reserved opinion on whether she established eligibility for the national interest waiver, we will discuss the Petitioner's claims made on appeal of whether she met the three prongs set forth in *Dhanasar*. For the reasons discussed below, the Petitioner has not established a waiver of the job offer, and thus of the labor certification, would be in the national interest.

The first prong of the *Dhanasar* analytical framework, substantial merit and national importance, focuses on the specific endeavor that a petitioner proposes to undertake. *Matter of Dhanasar,* 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas, such as business, entrepreneurialism, science, technology, culture, health, or education. In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *Id.* An endeavor is more specific than a general occupation and should include details of the types of work a petitioner intends to undertake and describe specific projects and goals. *See generally* 6 *USCIS Policy Manual* F.5(D)(2), https: //www.uscis.gov/policy-manual.

In her initial filing, the Petitioner did not clearly define her proposed endeavor. She indicated in her petition that her proposed employment is the job title of graduate research assistant. Her initial statement explained that her proposed endeavor is to "advanc[e] mathematics research (manifold neural network and multi-armed bandit) to support the electrical engineering applications," such as wireless communication networks and artificial intelligence theory. The Petitioner submitted evidence

of her past mathematical research to advance artificial intelligence and wireless communication applications while she was working as a graduate research assistant and earning her Ph.D. In particular, the Petitioner's evidence focused on her having designed a novel manifold neural network for wireless communication applications and enhanced the theoretical understanding of the limited behavior of graph neural networks.

SCOPS issued a request for evidence (RFE), noting that the Petitioner is a graduate research assistant whose proposed endeavor is unclear. SCOPS advised the Petitioner that continuing employment in one's position, field, or industry is not an endeavor sufficient to evaluate under the *Dhanasar* analytical framework. SCOPS requested that the Petitioner submit, among other evidence, a detailed personal statement that provides specific insight into her proposed endeavor and what she intends to do as a graduate research assistant.

In response to the RFE, the Petitioner submitted a statement, indicating a proposed endeavor similar to the one described in her initial statement, "to develop advanced mathematical theories and innovative solutions to significantly enhance the design, efficiency, and reliability of network systems across critical electrical engineering applications, including wireless communication networks, collaborative robotic systems, power grid optimization, and medical data analysis." However, the Petitioner provided evidence that, since the initial filing, she completed her Ph.D. program and planned to work from July 2025 to July 2026 as a post-doctoral scholar with [redacted] at the [redacted], and afterward in 2026 as an assistant professor at the Electrical and Systems Engineering Department at [redacted] in [redacted] Missouri. In addition to her research work, she explained her intent to publish her research in peer-reviewed journals, present at conferences, teach undergraduate courses, and mentor postdoctoral researchers and Ph.D. students.

In her statement, she explained that her post-doctoral scholar research at [redacted] would "address the strategic goals of the 'CHIPS for America' Program Office within the U.S. Department of Commerce's National Institute of Standards and Technology (NIST)." She planned to leverage her previous research knowledge and techniques "to develop transferable, stable, and generalizable Field Programmable Gate Array (FPGA) placement methodologies" with a "goal to enhance the quality and efficiency of large-scale chip designs."

For her future work as an assistant professor at [redacted] the Petitioner's statement explained her plans to establish her own research lab "dedicated to advancing geometric learning and graph neural networks to characterize mathematical foundations, develop novel architectures, and devise alternative training procedures for solutions in electrical engineering applications with the generous start-up package totaling $400,000 provided by [redacted]." For her research, her statement summarized three plans which include collaborating with other professors at [redacted] and recruiting Ph.D. and postdoctoral researchers to work with her on the research. First, she "aim[s] to establish fundamental theoretical understandings in geometric and graph machine learning, particularly focusing on emerging areas such as graph transformers and graph diffusion models," which would exhibit potential across various applications, including biological network analysis, social media network modeling, quantum chemistry, and materials science. Second, she describes "developing advanced solutions utilizing graph-structured learning methodologies to address the intricate challenges presented by complex wireless networks," including military

communications. For her third project, she plans "to address the challenging medical imaging problem and transform [her] theory into practical diagnosis tools" with a specific goal "to develop innovative semi-supervised and self-supervised Graph Neural Network (GNN) methodologies" to be "designed specifically to address the challenge of effectively analyzing medical imaging datasets, which frequently suffer from limited and sparse expert annotations."

In support of the national importance of the proposed endeavor, the Petitioner submitted letters of recommendation discussing her prior research and its impact on U.S. federal initiatives, particularly those aimed at enhancing national security interests and United States' competitiveness in critical and emerging technologies. In addition, she submitted documentation about funding from the National Science Foundation provided to [redacted] the CHIPS Act of 2022; a report by the U.S. Department of Energy on advanced wireless communication networks; the 2023 updated report of the National Artificial Intelligence Research and Development Strategic Plan by the National Science and Technology Council; the Petitioner's peer-review work; her Google Scholar citation history; offer letters for the Petitioner's new employment positions; and research articles referencing the Petitioner's prior research work.

A petitioner must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(1); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971). The purpose of a RFE is to elicit information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(1), (b)(8), (b)(12). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform with USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Assoc. Comm'r 1998).

Here, the Petitioner did not clearly define a proposed endeavor at the time of filing. She stated that through her work as a graduate research assistant she proposed to conduct advanced mathematics research focused on manifold neural network and multi-armed bandit in order to support electrical engineering applications. The evidence submitted in response to the RFE, instead of providing clarification as to the Petitioner's proposed endeavor as of the time of filing, described a new endeavor based upon the Petitioner's current employment as a post-doctoral researcher at [redacted] where she claims to leverage her previous research knowledge to develop FPGA placement methodologies for the enhancement of large-scale semi-conductor chip designs. In addition, she provided project plans based on her future employment as an assistant professor at [redacted] While the Petitioner's previous and future employment are in the fields of advanced mathematics and electrical engineering, the evidence submitted in response to the RFE indicates her proposed research for her new employers differs from the Petitioner's research work at the time of filing. The evidence in the record does not establish that, at the time of filing, the Petitioner possessed a specific endeavor that she proposed to undertake, and therefore does not establish the Petitioner's eligibility at the time of filing. *See Matter of Dhanasar*, 26 I&N Dec. at 889

While we do not minimize the work that the Petitioner is pursuing through her newly obtained employment, when an employment-based preference petition is filed, the petitioner establishes a priority date for a visa number assignment as of that filing date. *See Matter of Katigbak*, 14 I&N Dec. at 49. Allowing a petition to be approved if the petitioner becomes eligible under a new set of facts that did not exist at the time of filing would be contrary to the preference system established by statute and regulation. *See id.* Because the Petitioner has not sufficiently described her proposed endeavor

as of the time of filing, we are unable to ascertain either its substantial merit or its national importance. We therefore agree with SCOPS' findings that the Petitioner has not established eligibility under the first *Dhanasar* prong and conclude that the Petitioner has not met this requirement. The Petitioner did not sufficiently define a proposed endeavor at the time of filing and, in response to the RFE, sought to rely upon a new set of facts to establish eligibility. The record, therefore, does not establish the Petitioner's eligibility under the first *Dhanasar* prong as of the time of filing. 8 C.F.R. § 103.2(b)(12).

In her appeal brief, the Petitioner claims her new employment is a continuation of her initially proposed research work, and therefore she has not changed her proposed endeavor based on her new employment. For the reasons discussed above, we do not agree with the Petitioner's argument. However, even if the Petitioner's proposed endeavor described in her RFE reply existed at the time of her initial petition, which we are not confirming, she has not demonstrated the national importance of her proposed endeavor. Her research project descriptions for [redacted] and [redacted] are brief summaries, without specific details or evidence supporting her claims of their impacts. The Petitioner and evidence in the record mainly focus on her prior research with evidence to corroborate that her prior research has been of national importance. While the Petitioner indicates her research with [redacted] and [redacted] will have potential broader impacts on her field and on national initiatives, she has not provided evidence corroborating her claims. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner claims that her proposed endeavor aligns with national government initiatives recognizing the importance of advancing artificial intelligence, wireless communication networks, and semi-conductor chip design to enhance U.S. technology competitiveness and national security. To support her claims, the Petitioner submitted documentation about funding from the National Science Foundation provided to [redacted] the CHIPS Act of 2022, which is federal legislation providing federal funds to support the domestic production of semiconductors; a report by the U.S. Department of Energy on advanced wireless communication networks; and the 2023 updated report of the National Artificial Intelligence Research and Development Strategic Plan by the National Science and Technology Council.

The Petitioner, however, does not quantify her proposed endeavor's expected impact in the identified areas of concern, or provide objective, probative evidence to support her contentions. While USCIS recognizes specific evidentiary considerations relating to science, technology, engineering, and math (STEM) degrees and fields, "the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance." *See generally* 6 *USCIS Policy Manual*, *supra*, at F.5(D)(2). Moreover, the importance of an industry or field is not sufficient to meet the national importance requirement under the *Dhanasar* framework.

We acknowledge the overall value of the advancement of STEM, artificial intelligence, semiconductor production, and advanced wireless communications, and strengthening our nation's technology, particularly technology recognized as critical and emerging, but their overall significance does not establish the national importance of the Petitioner's proposed endeavor in particular. *See id.* The evidence submitted in support of her claims does not mention the Petitioner's specific proposed projects and their potential impact on the field or on such national initiatives. While the Petitioner provided documentation that the National Science Foundation and other organizations are funding her

work at [redacted] she has not shown that the funding was provided specifically for her work. Instead, the documentation indicates the funding was provided to [redacted] and other individuals working with [redacted] As a comparison, the petitioner in *Dhanasar* submitted evidence reflecting that he would continue his research into designing and developing propulsion systems in nano-satellites, rocket-propelled ballistic missiles, and single-stage-to-orbit vehicles and substantial supporting evidence of how his continued research would assist the United States in maintaining its advantage over other nations in hypersonic flight, including documentation reflecting his receipt of funding, as the main researcher, from a government entity for his research. *Matter of Dhanasar,* 26 I&N Dec. at 889. Here, the Petitioner has not provided the level of specific details or documentation as required under *Dhanasar* to support her claims. Although the Petitioner has shown that supporting the advancement of STEM, artificial intelligence, semiconductor production, and advanced wireless communications, and strengthening our nation's technology are nationally important issues, she has not demonstrated the potential prospective impact of her specific endeavor to such nationally important matters.

She contends that her plans to disseminate her findings through scholarly publications and conference presentations show her endeavor would have broad national impact. The Petitioner emphasizes that her research work has had a broad impact in her field, pointing to her previous research work having been published in industry publications and presented at industry conferences. While the Petitioner's previous research may help to understand her proposed endeavor, such previous work mainly relates to whether she is well-positioned to advance her endeavor under *Dhanasar's* second prong.

The record includes recommendation letters from the Petitioner's former academic advisors and colleagues who are familiar with her research. However, the Petitioner's former advisors and colleagues mainly focus on her previous research, while generally referencing the Petitioner's ongoing research being of importance and contributing to her field and national security. Her former advisors and colleagues, however, do not identify or address her specific proposed endeavor. While the Petitioner's previous research may help to understand her proposed endeavor, the Petitioner has not sufficiently explained the relevance of her previous research to her proposed research.

The Petitioner mainly relies on her statements, without sufficient corroborating evidence, to characterize her proposed research work as valuable for impacting her field and national initiatives. She summarized research projects but has not provided the level of specific details or documentation as required under *Dhanasar* to support her claims that her proposed research projects have potential broader impacts. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The claimed potential impacts on her field and on national initiatives depend on numerous factors, and the Petitioner did not offer a sufficiently direct evidentiary tie between her proposed research work and the claimed results. After considering the totality of the evidence, the Petitioner has not demonstrated by a preponderance of the evidence that her proposed endeavor is of national importance.

Accordingly, the Petitioner has not established that SCOPS' 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). She therefore has not demonstrated her motion to reconsider should be granted. We continue to reserve our opinion regarding her eligibility under the second and third *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. at 25.

## III. CONCLUSION

For the reasons discussed, the Petitioner has not provided proper cause for reopening or reconsideration of our prior 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:** This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). 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.