



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

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

In Re: 20737038

Date: JUN. 30, 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 education specialist, 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 initially approved the petition. However, the Director subsequently revoked the approval, concluding that a waiver of the required job offer, and thus of the labor certification, would not be in the national interest. In addition, the Director determined that the Petitioner willfully misrepresented material facts in support of her petition. We dismissed the subsequent appeal, concluding that the Petitioner had not overcome the Director's finding of misrepresentation, nor had she established eligibility for a national interest waiver. The matter is now before us on a combined motion to reopen and reconsider. The Petitioner continues to assert that she did not willfully misrepresent material facts and is eligible for a national interest waiver. In support, she submits two briefs and additional evidence.

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 combined motion to reopen and reconsider.

I. LEGAL FRAMEWORK

We set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). In announcing this new framework, we vacated our prior precedent decision, *Matter of New York State Department of Transportation*, 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998). *Dhanasar* states that after a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may grant a national interest waiver as matter of discretion. See also *Poursina v. USCIS*, 936 F.3d 868, 2019 WL 4051593 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature). As a matter of discretion, the national interest waiver may be granted if the petitioner demonstrates: (1) that the foreign national's proposed endeavor has both substantial merit and national

importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must (1) state the reasons for reconsideration and establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy, and (2) establish that the decision was incorrect based on the evidence in the record of proceedings at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The regulation at 8 C.F.R. § 103.5(a)(1)(i) limits our authority to reopen or reconsider to instances where the applicant has shown “proper cause” for that action. Thus, to merit reopening or reconsideration, an applicant must not only meet the formal filing requirements (such as submission of a properly completed Form I 290-B, 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

As a preliminary matter, we note that by regulation, the scope of a motion is limited to “the prior decision.” 8 C.F.R. § 103.5(a)(1)(i). The issue before us is whether the Petitioner has established that our decision to dismiss the prior appeal was based on an incorrect application of law or USCIS policy or whether she 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 Applicant’s claims on motion.

Our prior decision reflects our conclusion that the Petitioner did not overcome the Director’s findings concerning her: (1) eligibility under *Dhanasar* and (2) willful misrepresentation of material facts. As explained in that decision, the Petitioner materially changed her proposed endeavor after her initial filing and did not provide sufficient information concerning it. Accordingly, she did not satisfy the first prong of the *Dhanasar* framework and therefore could not be eligible for a national interest waiver. In addition, our prior decision examined the Director’s finding that the Petitioner willfully misrepresented material facts concerning her professional experience. We upheld the Director’s finding and provided analysis as to reasons the Petitioner had not overcome all of the derogatory information contained in the Director’s decision.

A. Motion to Reconsider

The filing before us does not entitle the Petitioner to a reconsideration of the revocation of the petition. Rather, a motion to reconsider pertains to our most recent decision. In other words, we examine any new arguments to the extent that they pertain to our prior dismissal of the Petitioner’s appeal. Therefore, we cannot consider new objections to the earlier revocation, and the Petitioner cannot use

the present filing to make new allegations of error she claims occurred at prior stages of the proceeding.¹

(1) Misrepresentation

The Petitioner rejects the finding of misrepresentation regarding translation errors contained in two documents because the “revocation did not meet the standard for misrepresentation, as it was not shown by clear, unequivocal, and convincing evidence that the mistranslated articles would have been predictably capable of affecting the decision” as the Petitioner asserts is required under *Kungys v. U.S.*, 485 U.S. 759 (1988). We do not agree. In fact, USCIS did rely upon on the Petitioner’s evidence, including the mistranslated articles, as demonstrated by its initial approval of the petition. We are not aware of any circumstances that would more strongly suggest that the evidence was capable of affecting the decision than that the evidence actually did affect the decision.

The Petitioner also argues that our reliance on various case law, including *Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988); *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987); and *Matter of Kai Hing Hui*, 15 I&N Dec. 288, 289-90 (BIA 1975), is misplaced.² The Petitioner asserts that the facts of these cases do not align with the facts of her case. She contends that the misrepresentations under these cases may be distinguished from the facts of her misrepresentation because in the cited cases, the false information was discovered by the government through investigatory means whereas the derogatory information relied upon in her case came directly from the Petitioner herself. Although the Petitioner suggests that her misrepresentations were of a minor nature in comparison to the applicants or petitioners in the cited cases, the Petitioner has not cited to any legal authority suggesting that degrees of misrepresentation exist or that one misrepresentation is more egregious than another.

The Petitioner also argues that the facts of her case do not rise to the level of willful misrepresentation because she herself provided numerous documents that confirmed her professional career. While we acknowledge this argument, the distinction regarding how the derogatory information was obtained is meaningless. Inconsistencies are not resolved simply by explaining that a petitioner provided them. As the Director’s decision and our prior dismissal explained, the documentary evidence regarding the Petitioner’s professional experience was internally inconsistent, and the Petitioner did not submit sufficient probative evidence to overcome the inconsistencies, even when given the opportunity. The individual material fact(s) that a petitioner or applicant misrepresents need not be exactly the same for the cited legal precedents in the above cases to apply.

While the Petitioner states on motion that she provided a “full picture” of her career in the initial filing, she also acknowledges that the this “full picture” included her résumé, certificates of career, and ETA. As explained, the Petitioner’s evidence contained inconsistencies and as such, the evidence did not provide a clear picture of her career. On motion, the Petitioner appears to suggest that the documents

¹ Because they constitute new arguments not based upon our prior decision, we will not discuss the Petitioner’s arguments on motion concerning whether the Director’s notice of intent to revoke (NOIR) made the Petitioner aware of all derogatory information considered by USCIS in accordance with 8 CFR § 103.2(b)(16)(i). We acknowledge the Petitioner argues on motion that the NOIR failed to inform her of the inconsistencies concerning the information on her ETA 750 Part B, Application for Alien Employment Certification (ETA), when compared with the other evidence she provided.

² Although the Petitioner argues that we relied on *Matter of Arias*, 19 I&N Dec. 568 (BIA 1988), our prior dismissal of the Petitioner’s appeal does cite this case.

themselves must be fraudulent for the precedent in the above-cited cases to apply, as opposed to genuine documents containing misrepresented information. However, the Petitioner does not cite to any legal authority to suggest that one means of presenting information is misrepresentation and the other is not. Furthermore, she offers little legal analysis or citation to an authoritative source explaining why material omissions on forms in this context should not be considered willful misrepresentation.

(2) Eligibility under Dhanasar

The Petitioner next alleges that USCIS only used the mistranslated articles to establish the Petitioner's eligibility under the second prong of Dhanasar and that the Director did not establish "good and sufficient cause" for revoking the petition under Dhanasar's first and third prongs. As explained in our prior decision, section 205 of the Act, 8 U.S.C. § 1155, states, in pertinent part, that the Secretary of Homeland Security "may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204." The Petitioner presumes that "[i]f the mistranslations were a material issue which formed the basis of the decision, then it would not be necessary to solicit further evidence regarding the first and third prongs. If the Director had good and sufficient cause to revoke on failure to satisfy any of the three prongs, it was simply not provided."

Apart from the separate finding of misrepresentation, the Director's NOIR and revocation decision provided the following bases for revoking the petition's approval:

- The record does not contain sufficient evidence that the proposed endeavor has substantial merit in an area such as business, entrepreneurialism, science, technology, culture, health, education, the arts, or social sciences;
- The record does not contain sufficient evidence that the proposed endeavor will have national importance;
- The record does not contain sufficient evidence that the Petitioner is well positioned to advance the proposed endeavor;
- The record does not contain sufficient evidence that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification . . .

Here, the Director reviewed his prior approval of the petition and determined that the approval had been in error. Therefore, the Director's realization that the approval had been in error provided the Director good and sufficient cause for revoking the petition, separate and apart from the additional basis concerning misrepresentation. Additionally, the NOIR provided the Petitioner with separate explanations for the evidentiary shortcomings under each of the three prongs. As stated in our prior decision, "[b]y itself, the Director's realization that a petition was incorrectly approved is good and sufficient cause for the revocation of the approval of an immigrant petition" in accordance with the Board of Immigration Appeals' determination in *Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988) (citing *Matter of Esteim*, 19 I&N Dec. 450 (BIA 1987)).

Although the Petitioner argues that the Director misapplied evidence she provided for the second Dhanasar prong and used it as a basis for determining that she did not establish eligibility under the first and third prong, the record does not support this assertion. Whether or not the evidence was considered for only one criterion or all of the criteria, the Petitioner received notice in the NOIR that:

- “To establish that an endeavor has substantial merit, the petitioner should provide a detailed description of the endeavor and why it is meritorious.”
- “In this case, the petitioner submitted a [statement], but the statement does not provide specific insight as to what she intends to do as an Education Specialist in the education field or provide specific insight into the research she intends to conduct as a researcher in the field of education.”
- “Without the petitioner’s proposed endeavor, she impedes USCIS in determining that the proposed endeavor has substantial merit and is of national importance and that she is well positioned to advance the proposed endeavor.”
- “The record does not contain sufficient evidence that the proposed endeavor has substantial merit . . . Please submit evidence to establish that the beneficiary’s proposed endeavor has substantial merit. Such evidence consists of, but is not limited to . . . A detailed description of the proposed endeavor and why it is of substantial merit . . .”
- “The record does not contain evidence of the petitioner’s proposed endeavor.”
- “The record does not contain sufficient evidence that the proposed endeavor will have potential prospective impact . . . The evidence must demonstrate the endeavor’s potential prospective impact. Such evidence consists of, but is not limited to . . . A detailed description of the proposed endeavor and why it is of national importance.”

In no less than six separate statements, the Director provided notice of the Petitioner’s evidentiary shortcomings under the first prong of Dhanasar. On appeal, our prior decision also reviewed the Petitioner’s eligibility for national interest waiver and explained that:

[T]he Petitioner initially proposed to “focus on professionalization of teachers.” However, in response to the Director’s NOIR and on appeal, the Petitioner claims “to develop a character education program geared toward Asian Americans” and “to develop a psychological support system and education program for Asians who have recently immigrated to the U.S., and for Asians who have just started studying in the U.S.” Here, the Petitioner materially changed her proposed endeavor from professionalizing teachers to character education for Asian Americans. . . . At initial filing, while she claimed to “focus on professionalization of teachers,” the Petitioner did not provide sufficient information and details to reflect a specific proposed endeavor as contemplated in Dhanasar. Instead, the Petitioner emphasized her past educational and professional achievements without elaborating and explaining how she intended to professionalize teachers in the United States.

On motion, the Petitioner focuses on the words “business plan” and states the NOIR requested a business plan but notes that USCIS also rejected new facts not in existence at the time of filing.³ Upon

³ We need not discuss the arguments on motion that concern the Director’s reliance on *Matter of Katigbak*, 14 I&N Dec 45, 49 (Comm. 1971). These are new arguments concerning the Director’s decision and do not pertain to our prior dismissal of the Petitioner’s appeal. Our prior decision specifically noted that the record reflected that the Petitioner qualifies as a member of the professions holding an advanced degree. Furthermore, our prior decision did not cite to *Katigbak*. Nonetheless, we note that the Director clearly rejected evidence that came into being after the filing date of the petition. The Director’s decision reflects that this applied to all evidence that came into being after the filing date of the

review of the NOIR, we conclude that the Director did not request a business plan, but simply suggested it as an example of evidence that could help establish eligibility under the second prong of Dhanasar. In addition to this suggestion and as noted above, the NOIR informed the Petitioner that the description of the Petitioner's proposed endeavor was insufficient. We addressed these concerns in our prior decision when we stated that the Petitioner materially changed her proposed endeavor from professionalizing teachers to character education for Asian Americans. We also explained in our prior decision:

The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of filing and continuing through adjudication. See 8 C.F.R. § 103.2(b)(1). Moreover, a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1988). That decision further provides, citing *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981), that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition." *Id.* at 176.

For the foregoing reasons, the Petitioner has not shown that our appellate decision contained errors of law or policy, or that the decision was incorrect based on the record at the time of that decision. Therefore, the motion does not meet the requirements of a motion to reconsider and it must be dismissed.

B. Motion to Reopen

Initially, we note that 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. With the current motion, the Petitioner has not met that burden.

The Petitioner's evidence on motion consists of, but is not limited to, documents verifying her past employment and work experience, along with an updated personal statement and proposed endeavor.

petition, regardless of whether such evidence applied to a new or different proposed endeavor, any of the Dhanasar prongs, or the Petitioner's eligibility for the underlying classification.

While we may not discuss each document individually, we have reviewed and considered each one. The Petitioner explains how the document translations and inconsistencies concerning her professional experience were due to the document processing agency she used for her national interest waiver filing. She states that the agency made careless translation errors, improperly edited her documents, and did not give her an opportunity to review documents before submitting them.

Although she provides updated statements concerning her professional experience and her proposed endeavor, her work experience and proposed endeavor were already considered. USCIS gave her opportunities to provide evidence to establish eligibility in the initial filing, through a request for evidence (RFE), and a NOIR.⁴ Even if we accepted the additional evidence submitted on motion, it would not resolve the discrepancies or cure the shortcomings in her evidence. Rather, the documentation submitted on motion would create additional inconsistencies in the Petitioner's claims. It would serve no useful purpose for the Petitioner to provide additional evidence to establish eligibility that is materially inconsistent with the evidence initially provided in support of the instant petition. As discussed in our dismissal of the Petitioner's appeal, a petitioner may not make material changes to a petition to make a deficient petition conform to USCIS requirements. See *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998). If significant, material changes are made to the initial request for approval, a petitioner must file a new petition rather than seek approval of a petition that is not supported by the facts in the record. We conclude that the documentation provided on motion concerning her professional experience and her proposed endeavor do not constitute new evidence. Any expansions or clarifications on her past experiences and her proposed endeavor involve documentation previously requested and are therefore not new.

Our prior decision informed the Petitioner that we would not consider her materially changed proposed endeavor and would base our decision upon her initially proposed endeavor. The Petitioner argues on motion that her initially proposed endeavor of professionalizing teachers and her subsequent description of her proposed endeavor to offer character education for Asian Americans are both within the education field. Therefore, she argues, our prior decision incorrectly determined that the proposed endeavor materially changed. She states that all of her filings "alluded to her proposed endeavor," but that now, on motion, she lays out her "full intention" regarding the proposed endeavor. She also notes on motion that throughout the prior proceedings her proposed endeavor was not inconsistent, but merely lacked detail. In *Dhanasar*, we held that a petitioner must identify "the specific endeavor that the foreign national proposes to undertake." See *Dhanasar*, 26 I&N Dec. at 889. Whether the proposed endeavor was materially inconsistent, lacked detail, or was materially inconsistent as described because it lacked detail, the foundation of the decision remains that the proposed endeavor did not establish the Petitioner's eligibility for a national interest waiver.

The Petitioner also argues that the two differently described proposed endeavors are both within the education field and are therefore not materially different from one another. As a specific proposed endeavor is required in order to determine the Petitioner's eligibility, naming the field of the proposed endeavor is insufficient. To illustrate, as we stated in *Dhanasar*, in determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead we focus on the "the specific endeavor that the foreign national proposes to undertake."

⁴ The Petitioner's brief on motion acknowledges that she has made numerous filings with USCIS, including through responses to an RFE and NOIR, as well as on appeal.

Id. at 889. In any case, the lying out her “full intention” for her proposed endeavor with “full detail” on motion cannot be considered new facts. As explained above, the Petitioner’s proposed endeavor involves documentation previously requested and is therefore not new. We will not discuss the merits of her proposed endeavor as they are not new facts. Accordingly, we make no determination on whether the proposed endeavor, as described on motion, would be sufficient to establish eligibility.

Our prior decision noted that the Petitioner stated on appeal:

“[I] Conduct Research and teach courses pertaining education”, but despite the fact that my hours as a lecturer were only part-time, I did in fact conduct research full time, and have submitted examples of my research, which I performed concurrently, in response to the NOIR to corroborate this fact. I was an independent full-time researcher whose actual lecturing duties were conducted on a part-time basis. As such, I did not willfully misrepresent my professional experience.

According to this explanation, the documents did not contain a misrepresentation. Nevertheless, we determined that such claims did not overcome the Director’s finding of misrepresentation. Now, on motion, the Petitioner attempts to set forth alternative arguments, including that the agency that prepared the documents was responsible for improperly editing her résumé and carelessly completing her ETA. We conclude that this additional explanation is not credible. Had the agency who prepared the documents done so carelessly, the Petitioner likely would have mentioned this in the first instance. Instead, she presents it for the first time on motion, only after her NOIR response and appellate claims were determined not to have overcome the Director’s finding of misrepresentation.

On motion, the Petitioner offers further explanation for the translation errors which differs somewhat from the explanation she provided in her appeal statement. The Petitioner asserts that the translation error was not misrepresentation, but merely a mistake. However, on motion she purports to absolve herself of the “mistake” by again pointing to the agency that prepared her petition. The Petitioner does not offer a detailed and credible explanation of how this agency error occurred or why she did not review the translations herself. To illustrate, the Petitioner explains on motion that:

[T]he agency omitted the process of checking with me or asking for my approval on whether the translation of the documents had been done correctly. I was only able to receive some of the documents translated by the agency in the process of submitting the documents requested by the consul after the interview at the embassy. . . . and in the process of reviewing the documents, I found the translation errors and mistakes made by the agency.

This explanation, even if true, would simply establish that she reviewed documents after her visa interview and either knowingly submitted incorrectly translated documents in response to the consul’s follow-up request or that she did not alert the consul and USCIS to the errors after she discovered them, such as by withdrawing her petition. We understand that she may have hired an agency to prepare her documents and file her petition; however, trusting an agency to perform work on her behalf does not absolve the Petitioner of responsibility for the contents of her petition. Although the Petitioner states that the agency she hired made these errors, her documentation to support this claim only establishes that there were inconsistencies in her petition. She highlights the prior errors in updated versions of documents,

submits evidence of a service agreement with the agency, and a provides a screenshot of a purported text message to the agency about the errors after her alleged discovery of them, but none of this evidence in itself establishes that the agency was responsible for the error.⁵ For example, the purported existence of a service agreement with the agency for a national interest waiver filing does not establish anything regarding the Petitioner's misrepresentation. Rather, the service agreement merely suggests that she may have hired an agency to assist her.

As explained in our prior decision, "the Petitioner did not, for example, submit a new certified translation in accordance with 8 C.F.R. § 103.2(b)(3), or other evidence corroborating her role with the project." We recognize that the Petitioner now attempts to provide such evidence on motion. However, we accord it little weight because it appears only after the Petitioner had opportunities to submit such evidence in response to the NOIR and on appeal. While the Petitioner may seek to clarify or correct material facts regarding her professional experience, we need not assign weight or credibility to this evidence in the manner advocated by the Petitioner. Even with additional evidence of the work she performed on the project, the Petitioner has not demonstrated that she did not willfully make misrepresentations of material facts regarding her professional experience.

Submitting alternate versions of self-filled forms and documents on motion is insufficient to cure the underlying misrepresentation. Although the Petitioner states on motion that the agency did not check with her concerning the translations they submitted on her behalf, that assertion is insufficient to overcome the presumption that she was aware of the contents of her petition. The Form I-140 petition contains the Petitioner's signature in Part 8. Here, she certified "under penalty of perjury under the laws of the United States of America, that this petition and the evidence submitted with it are all true and correct." A petitioner's signature on an immigration benefit request establishes a strong presumption that he or she knows of and has assented to the contents of the request. *Matter of Valdez*, 27 I&N Dec. 496 (BIA 2018).

The Petitioner claims on motion that the signature on her ETA is not her signature and that she did not sign the ETA initially submitted. On motion, she provides a new ETA that she contends is accurate and signed by her. To support her claim that she did not sign the original ETA, she provides a comparison of the signature on her ETA with the signatures on her passports. We recognize the difference between her written passport signatures and the printed signature provided on the ETA. Writing one's name naturally appears differently than printing one's name, but this does not necessarily establish that the agency she used signed the ETA on her behalf. Notably, earlier in the proceedings, including in her response to the NOIR and in her brief on appeal, the Petitioner did not assert that the agency signed anything on her behalf. Rather, she argued on appeal that her ETA was accurate and that her certificates of career did not contradict the information in it. It appears that since that argument failed to overcome the finding of misrepresentation, the Petitioner now seeks to bring forth an alternative explanation. However, we conclude that the Petitioner's alternative explanation lacks credibility, as it appears only after other arguments were found to be insufficient. In addition, the Petitioner has not provided sufficient

⁵ Alternatively, the Petitioner argues that the translation error by the agency is not material because she actually was a researcher on the project. Presumably, she provides this information to establish eligibility under the second prong of *Dhanasar*. Our prior decision explained that she had not established eligibility under the first prong of *Dhanasar* and therefore analysis of eligibility under the second and third prongs would serve no meaningful purpose. Therefore, we need not discuss this argument as the Petitioner's eligibility under the first prong is dispositive of the case.

independent, objective evidence that the agency signed the ETA on her behalf. We conclude that the Petitioner's claim and explanation are insufficient to establish that she did not sign her ETA.

Our prior decision thoroughly examined the record and provided explanations of why her evidence did not overcome the Director's findings. Although the Petitioner provides documents that purport to clarify her professional work history and experience, as well as explain the misrepresentation, the Petitioner previously had ample opportunity to correct any deficiencies in the record by her response to the NOIR and on appeal. The Petitioner elected not to address the Director's concerns about misrepresentation in her NOIR response nor did she adequately address the Director's notice concerning an insufficiently detailed proposed endeavor. The evidence she now submits to cure these deficiencies cannot be considered new, as it involves matters already considered and adjudicated. Accordingly, the Petitioner has not shown proper cause for reopening the proceedings.

III. CONCLUSION

Because the identified reasons for dismissal are dispositive of the Petitioner's motion, we decline to reach and hereby reserve the remaining bases to dismiss the combined motion. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

For the reasons discussed, the Petitioner's motion to reconsider has not shown that our prior decision was based on an incorrect application of law or USCIS policy, and the evidence provided in support of the motion to reopen does not overcome the grounds underlying our prior decision. Therefore, the combined motion to reopen and reconsider will be dismissed for the above stated reasons.

ORDER: The motion to reconsider is dismissed.

FURTHER ORDER: The motion to reopen is dismissed.