U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37692844

Date: APR. 1, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, an entrepreneur in the field of production engineering, seeks employment-based second preference (EB-2) 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 Texas Service Center denied the petition, concluding the record did not establish the Petitioner is eligible for a waiver of the job offer requirement in the national interest. We dismissed the appeal and subsequent combined motion to reopen and motion to reconsider. The matter is now before us on a second combined motion to reopen and motion to reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome). 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). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

It is important to note that our review on motion is limited to reviewing our latest decision, which is the January 2025 dismissal of the Petitioner's combined motion and not the Director's February 2024 decision. 8 C.F.R. § 103.5(a)(l)(ii). In dismissing the Petitioner's combined motion, we concluded the Petitioner had not provided new facts to establish that we erred in dismissing the appeal or established proper grounds for reconsideration.

On current motion, the Petitioner repeats verbatim several of her arguments regarding her eligibility for the underlying EB-2 classification and the national importance of her proposed endeavor from her previous combined motion and appeal without explaining why we should find these claims any more

persuasive than before. For instance, in our prior decision we explained that the record did not show that the Petitioner held a single-source foreign equivalent degree as required by 8 C.F.R. § 204.5(k)(2),[1] and that even if her second degree were determined to be the single-source foreign equivalent, because she did not complete that degree until August 2019 and filed the petition in November 2022, she could not have acquired the requisite five years of post-baccalaureate experience prior to filing. On motion, the Petitioner asserts she "provided solid evidentiary documentation showing that she has a foreign equivalent to a US bachelor's degree plus at least five years of progressive experience in the specialty." But beyond general assertions that she qualifies, the Petitioner does not address the explained deficiencies in the evidence.

Moreover, in support of the motion to reopen, the Petitioner provides articles regarding the decline and rise of entrepreneurship in the United States. However, as we previously explained, we must focus on the Petitioner's *particular* venture. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) ("The first prong, substantial merit and national importance, focuses on the *specific* endeavor that the foreign national proposes to undertake.") (emphasis added). The articles may demonstrate the importance of entrepreneurship, but the Petitioner has not provided sufficient evidence to show that her *specific* endeavor would meet the national importance element of the first prong under *Dhanasar*.

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 motions 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.

[1] The record shows that the Petitioner held two distinct bachelor's degrees, one requiring three-and-a-half years of study, and a second completed in 2019 requiring two years of study.

Further, *compare* 8 C.F.R. § 214.2(h)(4)(iii)(D) (defining for purposes of a nonimmigrant visa classification, the "equivalence to completion of a United States baccalaureate or higher degree.") Where combinations of education or experience may equate to baccalaureate degrees, the Act and regulations state so explicitly. See section 214(i)(2)(C) of the Act, 8 U.S.C. § 1184(i)(2)(C) (allowing H-1B workers to have "experience in the specialty equivalent to the completion of such [bachelor's] degree"); see also 8 C.F.R. § 214.2(h)(4)(iii)(C)(4) (stating H-1B workers may have "education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate . . . degree"). The regulations pertaining to the immigrant classification sought in this matter do not contain similar language.