U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37890700

Date: APRIL 16, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a management consultant entrepreneur, 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).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that she merits a waiver of the job offer and labor certification requirements for EB-2 classification. We dismissed a subsequent appeal, and the Petitioner subsequently filed combined motions to reopen and reconsider, which we dismissed as untimely. The Petitioner filed combined motions to reopen and reconsider a second and third time, which we also dismissed. The matter is now before us for a fourth time 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). 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). 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. 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 dismissed the Petitioner's appeal of the Director's decision, concluding that the Petitioner had not established her proposed endeavor is of national importance. We then dismissed the Petitioner's first combined motions to reopen and reconsider our decision as untimely because the motions were filed 40 days after our initial decision. In the combined motions to reopen and reconsider she submitted a second time, the Petitioner contested the correctness of our prior decision and submitted new evidence. We dismissed the second motions because the Petitioner did not provide new facts supported by evidence to reverse or assert any error in our conclusion that the Petitioner's initial combined motions

to reopen and reconsider were not received at the location designated for filing within the allotted time period as required by 8 C.F.R. §§ 103.2(a)(7)(i) and 103.5(a)(1)(i). In her third combined motions the Petitioner did not address our prior decision on her second combined motions affirming that her first combined motions were untimely filed, but instead claimed to establish the national importance of her proposed endeavor. Because the Petitioner did not address the basis of our dismissal of her second combined motions, we dismissed her third combined motions.

On her fourth combined motions, the Petitioner again does not address the untimely filing of her initial combined motions or address our prior decision on her third combined motions. Instead, the Petitioner claims she is eligible for a national interest waiver and submits additional evidence relevant to the *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), analytical framework. The Petitioner does not submit any evidence that her initial combined motions were timely filed.

The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). Therefore, we will only consider new evidence and claims to the extent they pertain to our latest decision dismissing the Petitioner's third combined motions. Here, the Petitioner has not provided new facts or additional evidence to establish that we erred in dismissing her third motion to reopen. The Petitioner also does not establish that our previous decision was based on an incorrect application of law or policy at the time we issued our decision, as required for a motion to reconsider. 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.