U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37712138

Date: APR. 23, 2025

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).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish her eligibility for the requested national interest waiver. We dismissed a subsequent appeal and four combined motions to reopen and reconsider. The matter is now before us on a fifth 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). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings—our dismissal of the fourth combined motion to reopen and reconsider. 8 C.F.R. § 103.5(a)(1)(ii).

In our most recent dismissal—that of the Petitioner's fourth combined motion, dated January 13, 2025—we explained that the Petitioner did not address why the dismissal of the untimely-filed third combined motion was incorrect. We further explained that, because the Petitioner provided previously submitted documentation and discussed her eligibility based only on the initial denial of her petition, she did not provide new facts to establish that we erred in dismissing her third combined motion, nor

did she establish that our dismissal of the third combined motion was an incorrect application of law or policy at the time it was issued. Accordingly, the fourth combined motion was dismissed.

The Petitioner's present combined motion to reopen and reconsider—her fifth—likewise does not provide new facts or evidence, nor does it identify any deficiency concerning our previous dismissal. The Petitioner states, without explanation, that our decision was erroneous, and she reasserts her eligibility by citing previous arguments and resubmitting evidence previously included in the record.

The Petitioner has not submitted new facts that that would warrant reopening of the proceedings and, therefore, has not met the requirements for a motion to reopen. 8 C.F.R. § 103.5(a)(2). 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, she has not met the requirements for a motion to reconsider. 8 C.F.R. § 103.5(a)(3). The combined 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.