U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38109915

Date: APR. 29, 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).

Service Center Operations denied the petition, concluding that the Petitioner did not establish eligibility for EB-2 classification or for a national interest waiver. On appeal, we determined that the Petitioner was eligible for EB-2 classification, but not a national interest waiver. We dismissed the Petitioner's appeal and three subsequent motions. The matter is now before us on motion to 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 motion.

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). 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 may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In our decision dismissing the previous motion, we indicated that the Petitioner had not shown we erred in concluding she did not meet the first prong of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). We explained that the Petitioner had not demonstrated that our determination regarding the national importance of her proposed endeavor was incorrect based on the evidence in the record.

On motion, the Petitioner contests the correctness of our prior decision asserting that it "directly contradicts *Dhanasar*." With respect to her proposed endeavor's national importance under *Dhanasar's* first prong, the Petitioner argues that our determination regarding her claimed economic projections and job creation metrics "imposed a requirement that is neither found in *Dhanasar* nor

supported by applicable law." In support of this argument, the Petitioner focuses on language in *Dhanasar* specific to the proposed endeavor's "substantial merit" which states: "Evidence that the endeavor has the potential to create a significant economic impact may be favorable but is not required, as an endeavor's *merit* may be established without immediate or quantifiable economic impact." *Id.* at 889 (emphasis added).

In determining whether the Petitioner's proposed endeavor "has national importance," however, *Dhanasar* indicates that "we consider its potential prospective impact" and "look for broader implications." *Id. Dhanasar* further explains that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. Our prior decision correctly concluded that the Petitioner had not shown that the potential prospective impact of her proposed endeavor stands to offer broader implications in her field or to generate substantial positive economic effects for our nation.

The Petitioner's contentions in her current motion merely reargue facts and issues we have already considered in our previous decisions. For example, she repeats earlier claims relating to her business plan and two expert opinion letters. *See e.g., Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) ("a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior Board decision"). We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied. Because 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, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.