U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42312776

Date: APR. 30, 2026

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 (SCOPS) denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but she did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal. The matter is now before us 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). By regulation, our review on motion is limited to "the prior decision." 8 C.F.R. § 103.5(a)(1)(i). We must dismiss any motion that does not satisfy the relevant motion requirements. 8 C.F.R. § 103.5(a)(4). Upon review, we will dismiss the Petitioner's motion.

I. MOTION TO REOPEN

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We interpret "new facts" to mean those that are material to the issues raised on motion and that have not been previously submitted in the proceeding, which includes within the original petition and any subsequent motion or appeal. Reasserting previously stated facts or resubmitting previously provided evidence does not constitute the submission of "new facts."

On motion, the Petitioner does not state any new facts and does not include any new documentary evidence. *See* 8 C.F.R. 103.5(a)(2). Instead, she asserts that we failed to properly review the record and reargues that the evidence, including her [redacted] (Model Plan), business plan, and recommendation letters submitted before SCOPS, supports her eligibility for a national interest waiver. Because the Petitioner has not presented new facts that would

warrant reopening of the proceeding, her motion does not meet the applicable regulatory requirements. Therefore, we must dismiss it. *See* 8 C.F.R. 103.5(a)(4).

II. MOTION TO RECONSIDER

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).

On motion, the Petitioner contests the correctness of our prior decision dismissing her appeal. She asserts that in our analysis of *Dhanasar's* second prong, we failed to properly consider the evidence relative to the nature of her proposed endeavor; misapplied *Matter of Dhanasar* and the USCIS Policy Manual; and departed from the preponderance of the evidence standard.

As noted in our prior decision, the Petitioner did not show that her academic achievements in the education field, her classroom teaching experience, and her practical experience in school-based emergency preparedness and disaster response management at a local level in the Philippines provide her with the skills that render her well-positioned to advance her proposed endeavor. While we acknowledge the Petitioner's arguments on motion, she has not established that our prior decision was based on an incorrect application of law or policy and that it was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3).

On motion, the Petitioner asserts we misinterpreted her proposed consultancy as an entrepreneurial endeavor and maintains that it is a "public-benefit, education-sector implementation model." By doing so, she claims we improperly applied the USCIS Policy Manual's "elevated entrepreneurial start-up metrics and commercial corroboration" requirements in our consideration of *Dhanasar's* second prong. In addition, the Petitioner contends that our decision acknowledged but failed to assess the totality of her favorable evidence, including her doctoral education, her more than ten years of instructional experience, her [redacted] coordination roles, national recognition for her disaster-preparedness implementation, registration of her business' name, and the Model Plan outlining scalable implementation of her consultancy. Despite "extensive" documentation demonstrating her "district-level systems leadership and real-world deployment during multiple flooding emergencies," she claims our decision minimized her [redacted] role as "local" and "ancillary" to her teaching. In addition, she claims that our decision emphasized unfavorable evidence and failed to "meaningfully engage with the ten-page [Model Plan], which translates [her] experience into a U.S.-adapted, scalable implementation framework" and "clarif[ies] that PREP is an implementation-based public-benefit consultancy, not a speculative startup." She claims that our decision's reasoning focused "on perceived deficiencies in business-plan corroboration," and omitted evidence directly addressing *Dhanasar's* prong two factors relating to her record of success, progress towards her endeavor, and a viable model for her future activities. We do not agree with the Petitioner and her characterization of our prior decision.

Contrary to the Petitioner's assertions, our prior decision appropriately analyzed the submitted evidence and considered factors relevant to the evidence she submitted to determine whether she is well-positioned to advance her proposed endeavor. As pointed out in our prior decision, "[t]he Petitioner's description of the proposed endeavor as a 'public interest consultancy' does not exempt

her from showing that the business is financially prepared to launch its operations and achieve the growth and milestones outlined in the business plan." Regardless of her consultancy's purpose, the Petitioner submitted statements, a business plan, and a Model Plan indicating she proposes to start her own business, that her business will charge fees for services, and the business will primarily depend on collection of such fees, among other funding sources, for its ongoing operations.

The Petitioner claims we failed to meaningfully consider her Model Plan, which shows her [redacted] experience is adaptable to implementation of her proposed consultancy. We disagree with the Petitioner's assertions. Our decision appropriately considered the Model Plan, as well as other evidence relevant to her being well-positioned to advance her proposed consultancy. However, as indicated in our decision, the evidence corroborating her general work experience as a teacher and her practical experience in school-based [redacted] in Philippines does not establish "that she has obtained skills that render her well-positioned for her proposed role as owner and founder of a U.S.-based educational consulting company with nationwide operations, or that she has a record of success in this type of endeavor." Experience in a given field may not be sufficient to demonstrate that such person is well-positioned to start a consulting business providing expertise in that field. *See generally* 6 *USCIS Policy Manual* F.5(D)(6), https://www.uscis.gov/policy-manual.

While her statements, business plan, and Model Plan are helpful to understanding the details of her proposed endeavor, we appropriately considered evidence submitted to corroborate her claims made in these documents relevant to her record of success in related or similar efforts, her progress towards achieving the proposed endeavor, and any demonstrated interest of potential customers, users, investors, or other relevant entities or individuals. Business plans or other similar descriptions of a petitioner's plans, while useful in explaining the petitioner's objectives, should be supported by other independent evidence. *See generally* 6 *USCIS Policy Manual*, supra, at F.5(D)(3).

On motion, the Petitioner asserts that we erred in emphasizing "outcome-determinative" deficiencies. For instance, the Petitioner claims our decision unfairly weighed her business plan's lack of staffing and cost details for the consultancy's proposed national expansion and the business plan's lack of numeric projections for financial support and feasibility. She maintains that factors such as financial feasibility; potential client communications; and staffing and implementation capacity, were improperly elevated in our prong two analysis. However, the Petitioner's unsubstantiated claims about her consultancy's feasibility and national expansion are not sufficient to meet her burden of proof. *See id.*

Here, the Petitioner provided statements, a business plan, and a Model Plan about her proposed consultancy's projected staffing, financial costs, potential clients, and financial support, but did submit meaningful details or evidence corroborating her claims about these projections. As acknowledged by the Petitioner in her motion, our prior decision did not indicate that the potential success of her consultancy was considered in our analysis. *See Matter of Dhanasar*, 26 I&N Dec. at 890; *see generally* 6 *USCIS Policy Manual*, supra, at F.5(D)(3). Instead, we appropriately considered whether the Petitioner provided independent, probative evidence to corroborate her claims about her consultancy's financial feasibility and national expansion plans in order to determine whether she is well-positioned to advance her proposed endeavor. *See generally* 6 *USCIS Policy Manual*, supra, at F.5(D)(3).

Contrary to the Petitioner's claims on motion, our prior decision appropriately analyzed evidence submitted in support of her being well-positioned to advance her proposed endeavor. The Petitioner's general assertion we failed to properly apply the preponderance of the evidence standard by dismissing various pieces of evidence also does not persuade us that our prior decision was incorrect. "[A] petitioner or applicant in administrative immigration proceedings must prove by a preponderance of evidence that he or she is eligible for the benefit sought" and that, in evaluating the evidence, USCIS makes its determination not by the quantity of evidence alone but by its quality. *Matter of Chawathe*, 25 I&N Dec. at 375. We considered the entirety of the evidence but agreed with SCOPS that it was not sufficient to demonstrate the Petitioner's eligibility for a national interest waiver. Although the Petitioner disagrees with the weight afforded to different pieces of the evidence, this alone does not establish an incorrect application of law or USCIS policy. Again, the purpose of a motion to reconsider is to show error in the most recent prior decision, not to adjudicate the petition anew. *See, e.g.*, *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (finding that a motion to reconsider is not a process by which the party may submit, in essence, the same brief and seek reconsideration by generally alleging error in the prior decision).

The Petitioner has not demonstrated that our prior decision dismissing her appeal 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). Accordingly, the motion must be dismissed.

III. CONCLUSION

For the reasons discussed, the Petitioner has not provided proper cause for reopening or reconsideration of our prior decision. Therefore, the 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.

NOTICE: Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.