U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33302939

Date: AUGUST 5, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a mathematics teacher, 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. The Petitioner appealed the matter to us, and we dismissed her appeal and four subsequent combined motions to reopen and reconsider. The Petitioner then appealed our decision dismissing the fourth motion. We rejected that appeal because we have no jurisdiction over appeals of AAO decisions. We then dismissed the Petitioner's fifth combined motion to reopen and reconsider.

The matter is now before us again on a sixth combined motion to reopen and 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 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 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). A motion that does not satisfy the applicable requirements must be dismissed. 8 C.F.R. § 103.5(a)(4).

By regulation, the scope of a motion is limited to "the prior decision." 8 C.F.R. § 103.5(a)(1)(i). We dismissed the Petitioner's fifth motion because she did not address the basis for our decision on her fourth motion, in which we rejected her appeal of our decision for lack of jurisdiction. While we had jurisdiction over the Petitioner's appeal of the Director's denial of her petition and her motions to reopen and reconsider our dismissal of her subsequent appeal, we have no jurisdiction over an appeal of our decision. *See* 8 C.F.R. §§ 103.3(a), 103.5(a). The Petitioner again does not address this issue in her present motion and does not submit any evidence relevant to this issue. Because she has not established any error in our prior decision, her combined motion must be dismissed.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.