U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32846417

Date: AUG. 12, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a dentist, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 record did not establish that the Petitioner had personally signed their Form I-140 and therefore had met requirements at 8 C.F.R. § 103.2(a)(2) that petitioners sign their benefit requests. 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). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo 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). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). 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).

On appeal, we determined that because the Petitioner submitted an electronic signature with their benefit request, it did not conform to regulatory requirements. On motion to reopen, the Petitioner reiterates their arguments on appeal that their Form I-140 was properly signed. The Petitioner submits a new personal affidavit including a screenshot that they argue is an accurate replication of how they normally sign their name. The Petitioner asserts that because the Form I-40 included their valid signature, they have demonstrated eligibility for the requested benefit.

We find that the submitted screenshot does not overcome the deficiencies as outlined in our decision dismissing the Petitioner's appeal. Contrary to the Petitioner's assertion, the signature image submitted on motion is considerably different in size, spacing, and overall appearance than the

signature on the Form I-140 in the record. The Petitioner also re-submits images in their motion brief purportedly of an excerpt of Form I-140 and renews arguments that these images reflect that their Form I-140 was properly signed. As explained in our previous decision, this signature is not consistent with the signature on the Form I-140 in the record.[1] As the evidence submitted on motion does not state new facts that are supported by documentary evidence, the Petitioner has not met the requirements of a motion to reopen.

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). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion to reconsider, the Petitioner contests the correctness of our prior decision and relies on the *USCIS Policy Manual*'s interpretation of the regulatory term "valid signature" to mean a signature that "is consistent with how the person signing normally signs his or her name." *See generally* 1 *USCIS Policy Manual*, B https://www.uscis.gov/policy-manual (explaining that the appearance of the signature on USCIS forms must be preponderantly consistent with that person's normal signature). However, this explanation in the *USCIS Policy Manual* refers to a definition of valid signatures consisting of "any handwritten mark". *See generally* 1 *USCIS Policy Manual*, *supra*, at B (explaining that the appearance of the signature on USCIS forms must be preponderantly consistent with that person's normal signature). The Petitioner does not argue, and has not established by a preponderance of the evidence, that the signature on the underlying Form I-140 was handwritten. The regulation at 8 C.F.R. § 103.2(a)(2) provides that "[u]nless otherwise specified in this chapter, an acceptable signature on a benefit request that is being filed with the USCIS [U.S. Citizenship and Immigration Services] is one that is either handwritten or, for benefit request filed electronically as permitted by the instructions to the form, in electronic format." Because the Petitioner's Form I-140 was not electronically filed, the provisions governing electronic filings are not relevant in the instant case. As a result, we find that these arguments do not demonstrate an incorrect application of law or policy regarding whether the Petitioner's underlying benefit request was signed, and therefore filed, properly.

The Petitioner additionally renews arguments made on appeal that even assuming arguendo that the signature on the Form I-140 was invalid, USCIS should have rejected the benefit request rather than issuing a decision, according to Chapter 2 of the *USCIS Policy Manual*. As discussed in our previous decision, the Director may reject, deny, or dismiss a benefit request that does not contain a valid or a proper signature and is not required to provide an opportunity to correct or cure a deficient signature. 8 C.F.R. § 103.2(a)(7)(ii)(A).

[1] We further noted our conclusion that these images did not correspond to the form the Petition submitted with their Form I-140 on October 24, 2022, as well as unresolved doubts about the reliability and sufficiency of any of the Petitioner's representations in these petition proceedings. *See Matter of Ho*, 19 I&N Dec. 582 at 591 ("Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition"). As the Petitioner's new evidence on motion has not overcome these doubts, we will not disturb our previous findings regarding the validity of the submitted signature.

Finally, the Petitioner argues that a denial of the I-140 has negatively impacted their immigration record and could lead to unreasonable bias in future filings. However, the Petitioner did not provide evidence nor cite a particular authority in support of this assertion.

In conclusion, although the Petitioner has submitted additional evidence in support of the motion to reopen, they have not established eligibility. On motion to reconsider, 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, 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.