U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33104362

Date: AUG. 13, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a human resources director, seeks employment-based second preference (EB-2) classification as a member of the professions holding an advance degree or an individual of exceptional ability, 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, concluding the Petitioner had not established eligibility for 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 a 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.

In dismissing the appeal, we determined the Petitioner did not establish her proposed endeavor satisfied the national importance aspect of the first prong under *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). Specifically, we concluded the Petitioner did not show how her endeavor would have broader implications in the field or would have significant potential to employ U.S. workers or other substantial positive economic effects.

A motion to reconsider must state the reasons for reconsideration; be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy; and establish that the decision was incorrect based on the evidence in the record 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, the Petitioner contends that we "failed to consider the totality of the evidence" and points to her personal statement, business plan, expert opinion letter, and probative research. The Petitioner references our determinations, portions of her personal statement, business plan, expert opinion letter, and probative research, and disagrees with our conclusions without demonstrating how we erred as a

matter of law or policy. *See 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). In our appellate decision, we adopted and affirmed the Director's analysis and decision regarding the national importance of the Petitioner's endeavor, but we also explained why the evidence she claims we did not consider did not satisfy the national importance aspect of the first prong. Again, simply disagreeing with our conclusions, without showing how we misapplied law or pointing to policy that contradicts our analysis of the evidence, is not sufficient to reconsider our decision.

Furthermore, the Petitioner asserts that we "applied a stricter standard of proof." However, the Petitioner does not point to specific instances where we required a "stricter standard" or explain how we applied a different standard of proof other than preponderance of the evidence. The preponderance of the evidence is the standard of proof governing immigration benefit requests. *Chawathe*, 25 I&N Dec. at 375; *see also Mater of Martinez*, 21 I&N Dec. 1035, 1036 (BIA 1997); *Matter of Soo Hoo*, 11 I&N Dec. 151, 152 (BIA 1965).

Because the Petitioner did not demonstrate that we erroneously applied law or policy in dismissing her appeal, the Petitioner has not established that her motion satisfies the requirements for a motion to reconsider under 8 C.F.R. § 103.5(a)(3). Therefore, we will dismiss the motion.

ORDER: The motion to reconsider is dismissed.