U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32882042

Date: AUG. 14, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a historical architect, 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 Nebraska Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she had not established 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, concluding that the Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the analytical framework described in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). The Petitioner filed a combined motion to reopen and reconsider, which we dismissed because the Petitioner had not met the requirements of a motion to reopen or reconsider. The Petitioner also filed two successive combined motions to reopen and reconsider, which we dismissed affirming our prior decisions and explaining why she failed to establish eligibility for the benefit sought. The Petitioner subsequently filed a motion to reopen, accompanied by supporting documentation for our review. We dismissed the motion, citing the absence of new facts to justify reopening. 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). Upon 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).

In support of her motion to reopen, the Petitioner resubmits previously provided documents along with an updated brief. In the brief, the Petitioner expresses her disagreement with the Director's decision denying her petition and stresses her proposed endeavor's national importance. The Petitioner,

however, does not present any new facts and does not submit any new evidence. The Petitioner rather discusses her proposed endeavor and reaffirms her assertions that the submitted evidence establishes her proposed endeavor's national importance. Although we acknowledge the Petitioner's brief, the Petitioner has not established new facts relevant to our appellate decision that would warrant reopening of the proceedings.

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 does not explain how we erroneously dismissed her appeal. The Petitioner only discusses her proposed endeavor without addressing the specific determinations made in our last decision. The Petitioner also does not explain how our appellate decision was based on an incorrect application of law or USCIS policy and that our decision was incorrect based on the evidence in the record at the time of the decision.

Although the Petitioner has submitted a brief in support of the motion to reopen, the Petitioner has not offered new evidence or facts on motion to overcome the stated grounds for dismissal in our appellate decision. 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, we will dismiss the Petitioner's motion to reopen and motion to reconsider. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.