U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32676882

Date: AUG. 16, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a social worker and proposed program director of a non-profit organization, 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).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for EB-2 classification, but that she had not established that a waiver of the required job officer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal and then a motion to reconsider. The matter is now before us as motion to reconsider for a second time.

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 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, the Petitioner contests the correctness of our prior decision. In support of the motion, the Petitioner relies on *Matter of Chawathe* to assert that we inappropriately reviewed the totality of the evidence in finding the record does not establish the proposed endeavor's national importance. The Petitioner specifically focuses on our analysis of the personal statement, business plan, expert opinion letters, and industry research contained in the record. However, we already explained in the prior motion to reconsider that this evidence was appropriately addressed in dismissing the appeal. The Petitioner does not point to any specific incorrect application or law or policy but reattempts a finding of national importance based on evidence that was already reviewed and addressed.

For example, the Petitioner highlights her personal statement and her intention to expand her non-profit across the United States. However, in our prior decision dismissing the motion, we specifically noted that in our appellate decision, we determined that "the Petitioner has not shown that her proposed endeavor" "stands to sufficiently extend beyond her own company and the youth and families it seeks to help to impact the fields of pedagogy and social work or the U.S. economy more broadly at a level commensurate with national importance." We further stated that "the Petitioner does not articulate how this conclusion is based on an incorrect application of law or USCIS policy." On this motion, the Petitioner similarly does not assert an incorrect application of law or policy but presents arguments that have already been addressed. Therefore, this does not meet the requirement of a motion to reconsider.

The next piece of evidence the Petitioner requests for us to review is the business plan. The Petitioner states on motion that we "did not evaluate the information contained in the Business Plan that supports how Ms. [redacted] proposed endeavor stands beyond her organization at a level commensurate with national importance." As noted above, both the appellate dismissal and the dismissal of the previous motion to reconsider discussed the business plan. This motion does not state any specific incorrect application of law or policy in relation to our analysis of the business plan, but states that we did not evaluate it. The record establishes that the business plan was fully reviewed and evaluated based on the *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016).

Additionally, the Petitioner focuses on the two expert opinion letters in the record, stating, we "did not consider the experts' qualifications in its evaluation, which significantly bolsters our claims regarding the national importance of Ms. [redacted] proposed endeavor." The experts' qualifications were not called into question in our analysis. It was the substance of the letters themselves that were questioned through the lens of the first prong of the *Dhanasar* framework for their weight as relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. The Petitioner states that she disagrees with our analysis because, "[b]oth experts provide detailed reasons why Ms. [redacted] endeavor holds national importance." However, the reasons provided by the Petitioner were already reviewed, analyzed, and addressed in prior decisions. Specifically in the prior decision, we noted that "they did not discuss the Petitioner's proposed future endeavor in sufficient detail"; "[i]nstead, the authors primarily focused on the importance of the social work." The Petitioner does not claim any incorrect application of law or policy that was applied, but states she disagrees with our analysis. This does not meet the criteria for a motion to reconsider.

Lastly, the Petitioner reiterates the significance of the research submitted in furtherance of her assertion of the national importance of her proposed endeavor. This too was addressed in the previous motion to reconsider. We stated that the evidence related to "juvenile justice and delinquency, and the social, emotional, behavioral, and mental health needs of youth in general," but "this evidence did not concern her specific endeavor of organizing workshops in an attempt to socially engaged young people." Again, we acknowledge the importance of the social work field and the merit of the Petitioner's work, however, focusing on the importance of the industry itself and not the Petitioner's specific endeavor does not establish that the Petitioner's endeavor will have national or even global implications within a particular field or that it has significant potential to employ U.S. workers, as required by *Dhanasar*. *Dhanasar,* 26 I&N Dec. at 889.

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). The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). The Petitioner's contentions in their current motion merely reargue facts and issues we have already considered in our previous decisions. *See e.g., Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) ("a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior Board decision"). We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

ORDER: The motion to reconsider is dismissed.