U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33490724

Date: AUGUST 16, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a special education teacher, seeks employment-based second preference (EB-2) immigrant classification as 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 although the Petitioner qualified for EB-2 classification as an advanced degree professional, she did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed the Petitioner's 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). 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). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

In our prior decision, incorporated here by reference, we determined the Petitioner did not meet the first prong of the analytical framework in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), to adjudicate national interest waiver petitions. We concluded the Petitioner did not establish the national importance of her proposed endeavor. *See id.* at 889 (providing in relevant part that, to establish eligibility for a national interest waiver, the petitioner must establish that their specific proposed endeavor has national importance).

On motion to reopen, the Petitioner does not assert any new facts and does not submit any new evidence. Her submission does not meet the requirements of a motion to reopen.

On motion to reconsider, the Petitioner asserts we focused primarily on the teaching aspect of her proposed endeavor and failed to consider that it included providing psychopedagogical support, consultancy on adapting materials for special education, and delivering lectures on education for children with special needs. However, in our prior decision, incorporated here by reference, we stated the Petitioner sought to open a special education support office where "she will provide psychopedagogical support, offer consultancy on adapting materials for special education, and deliver lectures on education for children with special needs."

The Petitioner also asserts her proposed endeavor has national importance because it has intrinsic societal benefits, and it is in the national interest of the federal government to assist state and local efforts to provide programs to meet the needs of handicapped children. We do not discount the importance of special education. However, the determination of national importance does not focus on the importance of the field in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.* In our prior decision, we explained that the evidence did not show the Petitioner's proposed endeavor would sufficiently extend beyond her immediate students and customers to enhance societal welfare on a broader scale indicative of national importance.

The Petitioner also claims we misapplied the preponderance of the evidence standard because we did not fully consider the record and explain why the evidence was insufficient. In particular, the Petitioner states our decision did not reference "the support letter from a professor at the [redacted] However, on page three of our prior decision we discussed the letter of intent from a professor at the [redacted] The Petitioner further asserts we did not consider her response to the Director's request for evidence (RFE). However, on page three of our prior decision, we listed the evidence the Petitioner submitted in response to the RFE and specifically discussed some of that evidence. When USCIS provides a reasoned consideration of the petition, and has made adequate findings, it will not be required to specifically address each claim a petitioner makes, nor is it necessary for it to address every piece of evidence a petitioner presents. *See Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *aff'd Morales v. INS*, 208 F.3d 323, 328 (1st Cir. 2000); *see also Pakasi v. Holder*, 577 F.3d 44, 48 (1st Cir. 2009); and *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009).

The Petitioner resubmits evidence that she spoke at and participated in professional events in her field and resubmits four support letters. The Petitioner claims this evidence shows the recognition of her contributions to the professional community in her field and the impact of her work. This evidence attests to the Petitioner's significant achievements in her field but is more relevant to the second *Dhanasar* prong of whether a petitioner is well-positioned to advance the proposed endeavor and in which we consider a petitioner's record of success. While the support letters discuss the Petitioner's successful work, they do not address her proposed endeavor. *Cf. Matter of Dhanasar,* 26 I&N Dec. at 892 (stating Dhanasar submitted probative expert letters describing the importance of his specific research as it relates to U.S. strategic interests).

The Petitioner's submission does not meet the requirements of a motion to reopen. 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 motions 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.