U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32063765

Date: AUG. 21, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a clinical and counseling psychologist, 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 Nebraska Service Center denied the petition, concluding that the Petitioner 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 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). 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)(i), (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 to work as a clinical and counseling psychologist through her Florida-based business. *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 evidence. Her submission does not meet the requirements of a motion to reopen. On motion to reconsider, the Petitioner asserts we failed to evaluate all the arguments she presented on appeal and did not properly analyze the submitted evidence. The Petitioner contends that the record proves she meets all requirements for the national interest waiver.

In our prior decision, we addressed the relevant evidence and determined it did not demonstrate any broader implications of the Petitioner's proposed endeavor in her field at a level of national importance. *See id.* (stating that national importance is evaluated through consideration of "potential prospective impact" and "broader implications"). We acknowledged the Petitioner's plan to employ 73 workers by the fifth year of her company's operation, but explained the record did not establish her specific proposed endeavor's significant potential to provide a substantial positive economic effect to Florida, the region, or the U.S. economy more broadly. *See id.* at 890 (specifying that an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, may well be understood to have national importance). On motion, the Petitioner does not cite any specific error in our application of *Dhanasar* or specify any other legal error or misapplication of policy in these determinations.

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.