U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33339723

Date: AUG. 21, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a change management manager, seeks second preference immigrant classification, 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 that a waiver of the required job offer, and thus of the labor certification, would not be in the national interest. We dismissed a subsequent appeal and a motion to reconsider. The matter is now before us on a second 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.

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).

We dismissed the Petitioner's motion to reconsider concluding that she had not established the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision and declined to analyze the second and third prongs of the precedent decision *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise ineligible).

The Petitioner asserts we erred in our dismissal and motion to reconsider by conflating the application of the first and second prongs of the *Dhanasar* analysis. Contending that the "arguments about demonstrated national impact in the past were not considered because past impact is generally related to the well-positioned prong" she posits that our analysis was prejudicial in the national impact prong of the *Dhanasar* analysis. The Petitioner asserts that we improperly determined the financial

projections from the business plan were insufficient to show national impact, and instead should have analyzed this in the well-positioned prong, and therefore we cannot also assert her past achievements are only applicable to the second prong of the *Dhanasar* framework.

This is a misinterpretation of the appeal and motion to reconsider dismissals. While the economic impact is one of the factors considered in the national importance prong of the Dhanasar analysis, it is not the only aspect of national importance that we analyzed. Previously, we explained that the record does not sufficiently demonstrate that the consulting activities offer benefits that extend beyond the Petitioner's clients to impact the industry more broadly. Our prior decisions centered on the economic impact and the Petitioner's experience and expertise in the field of change management and concluded that she had not sufficiently detailed how a small business would impact a given region in which she is located. We acknowledged the Petitioner's claims regarding the importance of her idea to implement change management and her role at her current employer but determined the Petitioner had not provided evidence of the broader implication for the field.

Our prior decision provided de novo review of the record on appeal and determined the Petitioner had not demonstrated the national importance of her endeavor by a preponderance of the evidence as contemplated by *Dhanasar*. The record does not contain detailed evidence of the national impact of the endeavor or support the assertions in the instant motion that our analysis of the national importance prong was in error. The Petitioner's brief in the current motion restates 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").

The Petitioner has not shown that we erred as a matter of law or policy. Consequently, we have no basis for reconsideration of our decision. Accordingly, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.