U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33817057

Date: AUGUST 29, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, an administrative services manager, 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 the Petitioner did not qualify for EB-2 classification, and 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 the Director did not give full consideration to the evidence the Petitioner submitted initially and in response to the Director's request for evidence (RFE). The Petitioner claims the Director erroneously determined that she does not qualify for EB-2 classification as an advanced degree professional or as an individual of exceptional ability and did not properly analyze her evidence. This motion seeks reconsideration of our prior decision on appeal, not the Director's denial of the petition. The Petitioner does not identify any incorrect application of law or policy in our prior decision on appeal.

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 based on the record 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.