U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35235596

Date: DEC. 2, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a personal financial advisor and entrepreneur, 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 the record did not establish that she was an advanced degree professional or eligible for a waiver of the job offer requirement in the national interest. We later dismissed the Petitioner's appeal, concluding the Petitioner did not establish the national importance of her proposed endeavor under the first prong of *Dhanasar*. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016).[1] The matter is now before us again on a combined motion 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 motion to reopen and the motion to reconsider.

In denying the appeal, we indicated that the Petitioner emphasized her 29 years of experience in the finance industry and multiple letters of support discussing her work experience and education. However, we reasoned that the Petitioner's skills, knowledge, and prior work in her field related to the second prong of the *Dhanasar* framework, not the first prong, focusing on the national importance of her proposed endeavor. We also stated that the national importance of the Petitioner's proposed endeavor must stand separate and apart from her education, skills, and job experience. *Dhanasar*, 26 I&N Dec. at 890. Further, we discussed submitted articles and industry reports about financial advisors and the role of immigrants as entrepreneurs, including information from O*NET OnLine and

[1] We did not address whether we agreed with the Director's determination that the Petitioner did not establish she held an advanced degree as our conclusion that the proposed endeavor lacked national importance was dispositive of the appeal. Likewise, since the Petitioner did not establish that she met the requisite first prong of the *Dhanasar* analytical framework, we also declined to reach and reserved the appellate arguments regarding her eligibility under the second and third prongs outlined in *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

the U.S. Bureau of Labor Statistics Occupational Employment and Wage Statistics. We reasoned that this evidence was not relevant since the issue was not the national importance of the field, industry, or profession in which she would work; but the "the specific endeavor that the foreign national proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889.

We further concluded the Petitioner did not establish that her specific endeavor would have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the United States. Specifically, we stated the Petitioner did not provide evidence indicating that the benefits to the regional or national economy resulting from her undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

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 to reconsider, the Petitioner largely reiterates assertions it submitted in support of the petition and previously on appeal. The Petitioner states that her proposed consulting business would provide "a formidable stream of resources into the national economy" and align "with federal initiatives to stimulate economic growth and job creation, notably in underserved areas." The Petitioner contends that her proposed investment consulting business would impact the "Financial Advice Services Industry" leading to the payment of $1.26 million in wages and create 24 jobs in Florida and Georgia over five years, including generating $3.32 million in revenue during this time. The Petitioner states that her business initiative "mirrors the Federal Economic Development Administration (EDA) goals, which seek to foster job growth and economic prosperity through investment in economically distressed areas." The Petitioner again emphasizes the importance of financial advisors, asserting that their work "is critical to the U.S. economy," emphasizing that her expert analysis would play "a crucial role in strengthening the financial health of businesses." The Petitioner further points to her "deep understanding of the Brazilian business environment" which she states would be valuable to U.S. companies, "enhancing their global competitiveness on a global scale." The Petitioner also again discusses the positive impact of immigrants and small businesses on the economy.

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 her current motion merely reargue facts and issues we have already considered on appeal. *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 resubmits assertions previously set forth on the record, again emphasizing her experience, and generally, the importance of financial advisors, immigrants, and small businesses within the U.S. economy. However, as we discussed in our prior decision, the national importance of the Petitioner's proposed endeavor must stand separate and apart from her education, skills, and job experience. Once again, the issue is not the national importance of the field, industry, or profession in which she will work; but the "the specific endeavor that the foreign national proposes to undertake." *Dhanasar*, 26 I&N Dec. at 889-90.

On motion, the Petitioner does not articulate how our prior determination was in error, namely, our conclusion she did not demonstrate that her proposed financial advisory business would operate on such a scale as rising to the level of national importance. The Petitioner only reiterates the asserted financial impact of her proposed business but does not specifically articulate how these projections would have substantial positive economic effects on a national level. The Petitioner asserts that her endeavor would be consistent with national initiatives and foster job growth and economic prosperity through investment in economically distressed areas. However, the Petitioner does not indicate in what specific economically distressed areas her proposed company would create significant job growth nor does she indicate with specificity, or establish with supporting documentation, how her proposed endeavor would enhance the global competitiveness of U.S. companies. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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).

On motion, the Petitioner submits a contract with a U.S. company reflecting that the Petitioner would begin work as a district agent at an insurance company in August 2024. The Petitioner further provides an employment letter from a foreign company reflecting her fulltime work as a business consultant in Brazil from April 2015 to December 2021. The Petitioner also submits a license indicating that she is authorized to engage in "various financial and insurance-related activities within the state of Florida." The Petitioner contends that this additional evidence demonstrates that she holds an advanced degree and possesses extensive post-baccalaureate work experience exceeding five years.

The evidence submitted in support of the motion to reopen does not address the issue of the national importance of the Petitioner's proposed endeavor, the basis of our dismissal of the prior appeal. The new evidence provided on motion does not establish the national importance of the Petitioner's proposed endeavor and her eligibility for the benefit sought. In fact, the Petitioner proposed work as a district agent for a U.S. insurance company leaves substantial question as to whether her proposed endeavor would be carried out as claimed and have a substantial positive economic impact on a national level. As such, the Petitioner has not met the requirements of a motion to reopen.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.