U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35211435

Date: DEC. 17, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner 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 that the Petitioner did not establish their eligibility for the requested national interest waiver. 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 combined 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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings (the dismissal of the appeal). 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 appellate decision, we concluded that the Petitioner did not establish eligibility for EB-2 immigrant classification as an advanced degree professional, because the record did not establish she completed a four-year degree equivalent to a U.S. bachelor's degree. *See* 8 C.F.R. § 204.5(k)(2) (stating that a U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree).

Additionally, we agreed with the Director's conclusion that the Petitioner did not establish eligibility for a national interest waiver because she did not meet the first prong of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). Specifically, we explained that,

although the Petitioner's endeavor of establishing a company offering attention deficient hyperactivity disorder (ADHD)- related courses and training for parents, teachers, and coordinators is substantially meritorious, the record did not establish her endeavor is nationally important as contemplated in *Dhanasar*. *Id.*

Upon review of the record, we determined that the Director considered the Petitioner's evidence and properly analyzed her claims. And, in response to the Petitioner's assertion that the Director improperly applied a national geographical breadth in analyzing the prospective impact of her endeavor, we determined that the Director properly considered both the regional and national impact of her endeavor when considering her claims regarding substantial positive economic effects. We also concluded, that contrary to the Petitioner's claims, the Director did not require her to establish a significant potential to employ U.S. workers or other substantial economic effects in order to establish national importance, as the Director properly consider other factors, including whether the Petitioner established that the endeavor would result in broad implications commensurate with national importance.

We also acknowledged the Petitioner's submission of a business plan providing financial and employment projects, but we concluded that the Petitioner did not provide an explanation or evidence corroborating the basis for these projections, or otherwise establish that her endeavor would result in substantial positive economic effects contemplated in *Dhanasar*. Moreover, we evaluated her assertions and evidence establishing the importance of assisting individuals with ADHD, and explained that, while we do not question the importance of managing ADHD in our society, she did not establish her endeavor will result in broader implications beyond her business and prospective clients, and therefore she did not establish the prospective impact of her endeavor would rise to the level of national importance as contemplated in *Dhanasar*. *See id.* (explaining the determination of national importance "focuses on the specific endeavor that the foreign national proposes to undertake").

On motion, the Petitioner submits a brief, along with additional evidence relating to the equivalence of her foreign degree. The Petitioner has established that she completed a four-year degree equivalent to a U.S. bachelor's degree. Accordingly, we conclude that the Petitioner has shown her eligibility for the underlying EB-2 immigrant classification as an advanced degree professional. Nonetheless, for the reasons discussed, the Petitioner has not established that we erred in concluding that she was not eligible for a national interest waiver.

On motion, the Petitioner has not submitted new evidence relating to her request for a national interest waiver, but claims that our decision contains an incorrect application of law or policy and was incorrected based on the evidence of the record. In particular the Petitioner asserts again that *Dhanasar* does not require "as a single and essential requirement" that an endeavor results in "concrete benefits in an economically depressed area[]," which is similar to the assertions she made on appeal, which we previously addressed in our decision.

Notably, however the Petitioner has not explained how our we erred in our determination that her endeavor would not result in broader implications or substantial economic effects contemplated in *Dhanasar*. Instead, she continues to rely on the same claims previously addressed in our appellate decision. For example, the Petitioner asserts that her endeavor would lead to broader implications

because her company would contribute to mitigating hindrances faced by learners diagnosed with ADHD, and Florida, where she intends to operate her business, "is increasingly concerned with providing learners with early learning mental health resources." Accordingly, the Petitioner asserts that her endeavor can offer quality and specialized education on a large scale by partnering with local schools and institutions. However, the Petitioner has not established that these partnerships, even if realized, would result in broader implications commensurate with national importance, beyond the benefits she would provide to her direct clients. As we stated in our prior decision, while we recognize the importance of treating ADHD, the Petitioner has not established the broader impact of her specific endeavor.

And on motion, the Petitioner relies on the importance of entrepreneurship, and the collective impact entrepreneurs make at both a local and national level. However, this does not establish the broader implications of her specific endeavor, but rather speaks to its substantial merit.

For the reasons discussed, we conclude that, while the Petitioner has established eligibility for the underlying EB-2 immigrant classification, she has not established new facts relevant to our appellate decision relating to her eligibility for the national interest waiver that would warrant reopening of the proceedings, nor has she shown that we erred as a matter of law or policy in concluding that she was not eligible for a national interest waiver. Our prior decision properly analyzed the Petitioner's assertions relating to the national importance of her endeavor, which she again makes on motion. The Petitioner cannot meet the requirements of a motion to reconsider by broadly disagreeing with our conclusions; the motion must demonstrate how we erred as a matter of law or policy. *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (finding that a motion to reconsider is not a process by which the party seeks reconsideration by generally alleging error in the prior decision).

Consequently, we have no basis for reopening or reconsideration of our decision, and the combined 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.