U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35412430

Date: DEC. 20, 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) classification as either a member of the professions holding an advance degree or an individual of exceptional ability, 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 the record did not establish the Petitioner qualifies for the underlying EB-2 classification or that she is eligible for the requested national interest waiver. We dismissed a subsequent appeal. The matter is now before us on a 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 state the reasons for reconsideration; be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy; and establish that the decision was incorrect based on the evidence in the record 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.

In dismissing the appeal, we agreed with the Director after evaluating the Petitioner's proposed endeavor's claimed broader implications and positive economic effects of the endeavor, as well as the business plan, that the record did not adequately demonstrate that these benefits would rise to the level of national importance and satisfy the first prong under *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). And, as she did not establish the national importance of the proposed endeavor and did not demonstrate eligibility for a national interest waiver, we reserved our review of her qualification for the underlying EB-2 classification.[1]

[1] Contrary to the Petitioner's assumption on motion, a determination on the underlying immigrant classification as either a member of the professions holding an advance degree or an individual of exceptional ability was not made in our decision.

On motion, the Petitioner repeats their previous assertions and contends we incorrectly applied the *Dhanasar* framework because we did not properly assess the national importance of her work in developing a water polo club and that we did not consider her specialized qualifications as an experienced water polo coach. The Petitioner's repeated contention is supported by the same evidence we discussed in our prior decision. Simply alleging generalized errors in the prior decision without specifying the factual and legal issues that were decided in error does not meet the requirements of a motion to reconsider under 8 C.F.R. § 103.5(a)(3). *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (confirming that a person cannot satisfy the requirements of a motion to reconsider by generally alleging error in the prior decision, rather the filing party "must specify the factual and legal issues" that were decided in error). Because the Petitioner has not demonstrated how we erred as a matter of law or policy, we have no basis for reconsideration of our decision, and the Petitioner's motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.