U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29789640

Date: FEB. 2, 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 or as 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 that the Petitioner qualified for EB-2 classification, but that she had not established 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 appeal. The matter is now before us on 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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In our decision dismissing the appeal, we agreed with the Director that the Petitioner did not meet the first prong of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). We explained that the Petitioner had not demonstrated the national importance of her proposed endeavor.

On motion, the Petitioner asserts that we "inappropriately reviewed the totality of the evidence." She mentions her "over THIRTY (30) years of professional experience in the education field." The Petitioner's prior work in her field, however, relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id*. at 890. The issue

here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar's* first prong.

The Petitioner also points to information about her proposed endeavor as discussed in her personal statement and business plan. Our appellate decision, however, specifically considered the Petitioner's proposed endeavor as outlined in her business plan. We determined the Petitioner had not shown that her proposed endeavor to offer behavioral and emotional support to youth in need through her non-profit organization, [redacted] "stands to sufficiently extend beyond her own company and the youth and families it seeks to help to impact the fields of pedagogy and social work or the U.S. economy more broadly at a level commensurate with national importance." The Petitioner does not articulate how this conclusion is based on an incorrect application of law or USCIS policy.

The Petitioner further contends that we "overlooked objective and corroborative evidence in support of [her] proposed endeavor," including expert opinion letters from J-D- and M-W-. With regard to these letters, we noted that they did not discuss the Petitioner's proposed future endeavor in sufficient detail. Instead, the authors primarily focused on the importance of social work in general. We explained that the letters did not articulate how the Petitioner's specific proposed endeavor has national or global implications beyond those youth and families who will attend her workshops.[1] The Petitioner has not demonstrated that our analysis was in error.

In addition, the Petitioner maintains that we "applied a stricter standard of proof than permissible when evaluating the evidence of record." Except where a different standard is specified by law, a petitioner must prove eligibility for the requested immigration benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. Under the preponderance of the evidence standard, the evidence must demonstrate that a petitioner's claim is "probably true." *Id.* at 376. Here, the Petitioner expresses disagreement with our analysis of her business plan and the expert opinion letters, but she does not explain how our specific conclusions applied a stricter standard of proof.

The Petitioner also asserts that we erred in our analysis of "Probative Research" in support of her proposed endeavor, such as articles about the value of social work to U.S. communities. Our appellate decision, however, correctly explained that while she provided articles, studies, and reports related to juvenile justice and delinquency, and the social, emotional, behavioral, and mental health needs of youth in general, this evidence did not concern her specific endeavor of organizing workshops in an attempt to socially engage young people.

Furthermore, the Petitioner argues that we "erred in not considering precedent decisions," but she mentions only *Dhanasar*.[2] She states: "As in *Matter of Dhanasar*, [the Petitioner] submitted a probative opinion from two (2) experts holding a senior position in academia and industry that describe the importance of her proposed endeavor and, more broadly, the benefits of [the Petitioner's] work via her non-profit organization . . . . In addition, we submitted probative research to support [the Petitioner's] claims." In *Dhanasar*, "[t]he petitioner submitted probative expert letters from

[1] USCIS may, in its discretion, use as advisory opinion statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, the submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*

[2] Our appellate decision specifically considered the Petitioner's eligibility under the first prong of the *Dhanasar* analytical framework.

individuals holding senior positions in academia, government, and industry that describe the importance of hypersonic propulsion research as it relates to U.S. strategic interests." *Id.* at 892. In addition, the petitioner "provided media articles and other evidence documenting the interest of the House Committee on Armed Services in the development of hypersonic technologies and discussing the potential significance of U.S. advances in this area of research and development." *Id.* Here, the Petitioner has not established that the facts of the instant petition are analogous to those in the *Dhanasar* precedent decision. For example, unlike the scientific researcher in *Dhanasar*, the Petitioner has not demonstrated that her proposed endeavor offers broader implications in the field.

The Petitioner has not demonstrated that our appellate decision was based on an incorrect application of law or USCIS policy and that our decision was incorrect based on the evidence in the record at the time of the decision. Because the Petitioner has not established that we erred as a matter of law or USCIS policy in our decision, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4). The Petitioner's appeal therefore remains dismissed, and her underlying petition remains denied.

ORDER: The motion to reconsider is dismissed.