U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35866164

Date: FEB. 11, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a human resources director, 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 Petitioner had not established eligibility for 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 and motion to reconsider. The matter is now before us on a second motion to reconsider. 8 C.F.R. § 103.5.

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 prior motion to reconsider, we determined the Petitioner did not establish that we misapplied the law or U.S. Citizenship and Immigration Services (USCIS) policy, noting that the prior decision analyzed the evidence and arguments with a correct conclusion. Citing *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006), we explained that the Petitioner did not meet the requirements of a motion to reconsider by broadly disagreeing with the conclusions of our prior decision. We noted that the Petitioner must specify laws, regulations, precedent decisions, or binding policies believed to be misapplied in the prior decision.

In the Petitioner's current motion brief, she contends that she did not merely disagree with our conclusions without demonstrating a misapplication of law or policy. She asserts she "provided a detailed analysis of the evidence, showing how the AAO failed to properly consider the totality of the

evidence presented misinterpreting key documents that actually demonstrate compliance with the legal criteria." The Petitioner also essentially repeats her contention that we misapplied the preponderance of the evidence standard of proof in our evaluation of the evidence.

Here, we are not persuaded by the Petitioner's arguments. We agree with our prior decision that the evidence in the record had already been reviewed and discussed in the prior decisions, and correctly determined that the Petitioner did not demonstrate her proposed endeavor is of national importance under *Dhanasar's* first prong.

The Petitioner has not established that our prior decision was based on an incorrect application of law or policy. *See* 8 C.F.R. § 103.5(a)(3). We have already considered and analyzed the Petitioner's evidence in the petition under the preponderance of the evidence standard and found it insufficient to demonstrate eligibility for the requested benefit. Our prior motion decision appropriately explained that the Petitioner's prior arguments did not specify the reasons why the preceding decision was based on incorrect application of law or policy. The same evidence and assertions do not warrant reconsideration of our prior decision now.

In this matter, the Petitioner has not overcome our prior decision or shown proper cause to reconsider this matter. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision, nor has she demonstrated eligibility for the requested benefit. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.