U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36904364

Date: FEB. 13, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a nurse and nursing management specialist, 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 eligibility for EB-2 classification or for a national interest waiver. On appeal, we concluded that the Petitioner was eligible for EB-2 classification but not a national interest waiver. The Petitioner then filed combined motions to reopen and reconsider which were dismissed. Next, the Petitioner filed combined motions to reopen and reconsider which was also dismissed. 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.

On motion, the Petitioner contests the correctness of our prior decision. In support of the motion, the Petitioner states that we "erred in not considering that the Probative Research contextualizes the urgency and demand of [the Petitioner's] work and that two independent Experts provided compelling opinions underscoring the national significance of her proposed endeavor for the United States. Moreover, [the Petitioner] submitted a Business Plan for [her] U.S. company and her Nursing License, which validates her qualifications and reinforces the credibility of her contributions to the healthcare sector.

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 their current motion merely reargue facts and issues we have already considered in our previous decisions. *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 contends our prior decision only discussed job creation and the economic impact of her proposed endeavor and disregarded the other areas she states her proposed endeavor would impact. However, our prior decision states, "[t]he Petitioner has not demonstrated that her work would lead to national advances in the healthcare field," which encompasses the other areas of her business plan; concluding that the record establishes the impact of her proposed endeavor would be limited to her clients and would not have a broader impact to the healthcare field as is required by the first prong of the *Dhanasar* framework. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016).

In addition, the Petitioner asserts that the expert opinion letters in the record are admissible evidence. Our prior decision addresses the expert opinion letters stating that we did not disregard the letters but found that they did not support the claim of the national importance of her specific proposed endeavor. In addition, we concluded that the Petitioner did not "elaborate this claim or explain how an alternate analysis of the record would have established her eligibility." The Petitioner has not established that this decision was incorrect but reargues similar points that have already been addressed in our prior decision. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

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. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.