U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36062806

Date: FEB. 24, 2025

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 Nebraska Service Center denied the petition, concluding that the Petitioner did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. 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 motions.

In our appellate decision, we concluded that the Petitioner had not established that she holds the foreign equivalent of a U.S. bachelor's degree with five years of progressive experience in the specialty. 8 C.F.R. § 204.5(k)(2). We reviewed the Petitioner's two diplomas and determined that each diploma required less than four years of study to earn, and the Petitioner did not show how either diploma is the equivalent to the four years of study generally required for a U.S. bachelor's degree.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits a legal brief and an evaluation with letters regarding the evaluation. The Petitioner asserts that these documents establish eligibility, as a holder of an advanced degree and

five years of progressive post-baccalaureate experience.[1] Further, the Petitioner asserts that she merits a national interest waiver.

The Petitioner submits on motion an evaluation of the Petitioner's academic and work experience from Dr. [redacted] chair of graduate studies in the [redacted] and the chair of the technology management department of the [redacted] The Petitioner obtained this report after we dismissed her appeal concluding that the Petitioner did not have the equivalent of a U.S. bachelor's degree. The report states that the evaluation is based on the Petitioner's degree certificate and transcripts from [redacted] and her employment verification letters. The evaluator reviewed the requirements for her Title of Public Accountant degree and stated that the Petitioner has "satisfied requirements which are substantially similar to those required toward the completion of a Bachelor's Degree in Accounting from an accredited institution of higher education in the United States." Like the evaluation that the Petitioner previously submitted, and we addressed on appeal, the one presented on motion does not explain how her two years of study are equivalent to the four years of education generally required for a U.S. bachelor's degree.

The evaluation further states that the Petitioner "completed at least seven years of progressive training and work experience in Accounting and related areas," and that these seven years of "post-baccalaureate" employment are the equivalent to a master's degree in accounting. However, the evaluator does not explain how her two-year degree is the equivalent of four year bachelor's degree. Therefore, it is not clear whether the Petitioner's seven years of work are in fact years of "post-baccalaureate" work as noted by the evaluator. We may, in our discretion, use an evaluation of a person's foreign education as an advisory opinion. *Matter of Sea, Inc.*, 19 I&N Dec. 817, 820 (Comm'r 1988). However, where an opinion is not in accord with other information or is any way questionable, we may discount or give less weight to that evaluation. *Id.*

Upon review of the new motion documents, we find that the Petitioner has not presented new facts that overcomes our prior decision to dismiss the appeal.

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). 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.

On motion, the Petitioner submits a brief that reiterates arguments previously made and contends she is eligible for the national interest waiver. However, the brief consists of conclusory statements that do not meaningfully overcome the issues noted in our decision. The Petitioner has not established proper grounds for reconsideration. Our prior decision properly analyzed the Petitioner's assertions. 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*

[1] On motion, the Petitioner makes no claim to eligibility for EB-2 classification as an individual of exceptional ability. As such, that issue is waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

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).

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. 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 reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.