U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 36025755

Date: JAN. 10, 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 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 classification as a member of the professions holding an advanced degree, 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 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.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. 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).

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.[1] Specifically, we stated that she did not establish her proposed endeavor has significant

[1] As this issue was dispositive of the Petitioner's appeal, we did not reach, and therefore reserved, determination of her eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to

potential to employ U.S. workers, other substantial positive economic effects, or broader implications indicating national importance.

On motion, the Petitioner requests that we reopen the matter and approve her Form I-140 petition. She argues that she "is a highly accomplished attorney with over 20 years of experience in Brazilian tax and customs law." She points to her expertise in customs regulation, tax issues, and international trade rules as well as her fluency in English and legal knowledge. The Petitioner's skills, knowledge, and prior work in her field relate 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.

In addition, the Petitioner contends that she has "the financial resources to invest in a large workspace" and that "[s]he is willing to pay competitive salaries of up to $8000 dollars per month" for licensed lawyers. The Petitioner also asserts that her consulting company will have 84 clients in year one, 116 in year two, and 148 in year three, but she did not elaborate on these projections or provide evidence supporting her claims. Furthermore, while she offers revenue projections of $1,008,000 in year one, $1,392,000 in year two, and $1,776,000 in year three, these projections are not supported by details showing their basis or an explanation of how they will be achieved.

Although the Petitioner contends that her proposed endeavor stands to "generate skilled jobs," "stimulate economic growth," and contribute "to the American economy," she has not demonstrated that her undertaking would operate on such a scale as to rise to a level of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. Furthermore, while any basic economic activity has the potential to positively affect the economy to some degree, the Petitioner has not demonstrated how the potential prospective impact of her proposed endeavor stands to offer broader implications in her field or to generate substantial positive economic effects in the region where her company will operate or in other parts of the United States.

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. Additionally, she has not offered new evidence or facts on motion to overcome the stated grounds for dismissal in our decision.

The Petitioner has not established new facts relevant to our appellate decision that would warrant reopening of the proceedings, nor has she shown that we erred as a matter of law or USCIS policy. Consequently, we have no basis for reopening or reconsideration of our decision. Accordingly, the motions 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 reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.

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the ultimate decision).