U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35237354

Date: JAN. 28, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a human resources and marketing communications 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 the record 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 the Petitioner's appeal and a subsequently filed combined motion to reopen and motion to reconsider. The matter is now before us again on a 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). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii).

On motion, the Petitioner contests the correctness of our prior decision. In support of the motion, the Petitioner asserts we exceeded the preponderance of the evidence standard and did not properly consider the totality of the evidence.[1] In particular, the Petitioner disagrees with our analysis and conclusions regarding her proposed endeavor's national importance under the analytical framework in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). Specifically, she disputes our determinations that her proposed endeavor's prospective impact did not rise to the level of national importance and that it did not have a significant potential to employ U.S. workers or otherwise offer substantial positive economic effects. She also points to her business plan, expert opinion letters, support letters, and other evidence already in the record and continues to assert that the facts of her case are analogous to those in the *Dhanasar* decision.

[1] With her motion, the Petitioner submits evidence that we previously considered in our prior decision.

The purpose of a motion to reconsider is to show error in the most recent prior decision, not to adjudicate the petition anew. *See, e.g.*, *Matter 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 may submit, in essence, the same brief and seek reconsideration by generally alleging error in the prior decision). The Petitioner's contentions in her current motion to reconsider merely reargue facts and issues we have already considered, but did not find persuasive in our previous decision. Aside from broadly disagreeing with our conclusions, she does not specifically explain how we applied a stricter standard of proof than a preponderance of the evidence or otherwise misapplied law or policy in evaluating *Dhanasar's* first prong. Simply expressing disagreement with an adverse decision is not sufficient to meet the requirements of a motion to reconsider under 8 C.F.R. § 103.5(a)(3).

The Petitioner also asserts that our prior decision erroneously stated that we are not required to list in detail each piece of evidence submitted. She claims this is inconsistent with the regulations at 8 C.F.R. §§ 103.2(b)(8)(i), 103.3(a)(1)(ii), as well as case law such as *Matter of S-M-J-*, 21 I&N Dec. 722 (BIA 1997). The Petitioner also argues, citing to the Administrative Procedure Act, 5 U.S.C. § 706(2), and *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983), that our "reliance on generic statements of evidence consideration" without an explanation of the specific shortcomings of the evidence is indicative of arbitrary decision-making.

As noted in our prior decision, however, when USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim a petitioner makes, nor is it necessary for it to address every piece of evidence a petitioner presents. *See Lingeswaran v. U.S. Att'y Gen.*, 969 F.3d 1278, 1292 (11th Cir. 2020). While the Petitioner continues to assert that we did not provide a substantive discussion on the specific content of her "probative research" and, therefore, suggests we did not fully discharge our duty to review all the evidence, the Petitioner does not point to specific examples of what research was purportedly ignored or explain how that evidence would have demonstrated her proposed endeavor's national importance, as opposed to the importance of her field in general.

Moreover, contrary to the Petitioner's claim, our previous decisions adequately addressed the evidence submitted and discussed the reasons why the Petitioner did not meet her burden to demonstrate eligibility for a national interest waiver. For example, we noted that the Petitioner's business plan anticipated her company would hire eight employees by the end of year five and projected sales of $202,720 in year one increasing to $547,254 in year five. However, we determined that the evidence did not sufficiently demonstrate that her company's future staffing levels and business activity would provide substantial economic benefits in Florida or the United States. We also concluded that the Petitioner did not offer sufficient evidence to show that the area where her company operates is economically depressed, that she would employ a significant population of workers in that area, or that her endeavor would offer the region or its population a substantial economic benefit through employment levels, tax revenue, or business activity. As such, she had not carried her burden to show that her proposed endeavor has a significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the United States. The prior decisions provided the Petitioner with a sufficient explanation of the grounds for her dismissals.

Finally, with regard to her motion to reopen, the Petitioner does not identify any error in our dismissal of that motion or otherwise contest that determination. Because she has not established how we erred

as a matter of law or policy in dismissing her motion to reopen, she has not shown reconsideration is warranted on that basis, either.

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

ORDER: The motion to reconsider is dismissed.