U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31744683

Date: JULY 3, 2024

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 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 and three subsequent combined motions on the same grounds. The matter is now before us again on a fourth combined motion 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 motion.

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). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). 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).

Regarding the instant motion to reopen, the Petitioner does not state new facts supported by documentary evidence. *See* 8 C.F.R. § 103.5(a)(2). Rather, the Petitioner reiterates her claim that she has established that she is eligible for a national interest waiver, claims that have already been considered and discussed in our previous decisions. As for the instant motion to reconsider, the Petitioner does not assert or establish that our December 16, 2022, decision to dismiss the combined motion, the "prior decision" and the "latest decision in the proceeding" was based on an incorrect application or law or policy or that the decision was incorrect based on the record of proceedings at the time of the decision. *See* 8 C.F.R. § 103.5(a)(1)(i), (ii).

Accordingly, the Petitioner has not shown proper cause for reopening or reconsidering the proceedings with regard to her eligibility for a national interest waiver. 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"). We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.