U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31700882

Date: JULY 3, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a human resources consultant, 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 although the Petitioner established eligibility for the underlying EB-2 visa classification, she did not demonstrate that a waiver of the required job offer, and thus of a labor certification, would be in the national interest. We dismissed the Petitioner's appeal on the same ground, and the matter is now before us on a 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 motions.

A motion to reopen is based on documentary evidence of new facts to be provided in the reopened proceeding, and a motion to reconsider must establish that our decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy to the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(2)-(3). 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).

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

As previously discussed, once a petitioner demonstrates eligibility for the underlying EB-2 classification, we evaluate whether they merit a discretionary waiver of the job offer requirement "in the national interest" applying the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), which requires the petitioner to demonstrate that: (1) their proposed endeavor has both substantial merit and national importance; (2) they are well-positioned to advance their

proposed endeavor; and (3) on balance, waiving the job offer requirement would benefit the United States.

In our prior decision, which we incorporate here by reference, we concluded that the Petitioner did not establish national importance of her proposed endeavor, which she described as a plan to serve the U.S. hotel industry through her work as a human resources and talent management consultant for her own company. In reaching this conclusion, we noted that neither the endeavor statement nor the updated personal statement the Petitioner submitted in response to the request for additional evidence (RFE) appeared reliable or sufficient, as both contained identical fuzzy and pixelated signature images in rectangular gray boxes that may have been affixed to these documents by any person using a word processor.

Furthermore, after a substantive review of the evidence presented, including the above documents, we concluded that the Petitioner provided only generalized information about the hotel industry, employment, human resources, and the U.S. economy, and not the specific endeavor she proposed to undertake, which is our primary focus in evaluating whether the endeavor has national importance required under the first prong of the *Dhanasar* analytical framework. *See Id.* at 889-90. Consequently, we determined that although the Petitioner's proposed endeavor of founding a hotel human resources consulting company might benefit her as the company owner and operator, her potential clients, and those clients' employees and customers, the record did not otherwise establish its national importance.

On motion, the Petitioner does not contest our determination that the evidence considered in the aggregate was insufficient to establish national importance of her proposed undertaking. Instead, she asserts that we improperly questioned the authenticity of her signatures on the two documents she submitted in response to the RFE. The Petitioner states that in March 2020 USCIS temporarily waived the requirement of original signatures due to COVID-19 national emergency and made this exemption permanent in July 2022.[1] In support, she submits copies of the respective USCIS announcements.

We acknowledge the Petitioner's assertions concerning the validity of her signature on the two documents in question. Nevertheless, we previously determined that even considering the information in these documents the preponderance of the evidence was inadequate to show that her proposed endeavor had national importance. As the Petitioner does not point to any legal or policy errors in our substantive evaluation of the evidence and the ultimate conclusion that it was not sufficient to establish her eligibility for the national interest waiver, we have no basis to reexamine and reconsider our prior decision dismissing her appeal on this ground.

Furthermore, as the Petitioner does not submit any additional evidence or information that might establish the requisite national importance of her proposed endeavor, she has not overcome our prior adverse determination on this issue and reopening the matter would serve no constructive purpose.

[1] Although USCIS waived the requirement of original signatures in 2020, the Petitioner misinterprets the related policy guidance, which has been since memorialized in 1 *USCIS Policy Manual* B.2(B), https://www.uscis.gov/policy-manual. Pursuant to this guidance, a signature is valid even if the original signature on the document is photocopied, scanned, faxed, or similarly reproduced; however, the copy must be of an original document containing an original handwritten signature, unless otherwise specified. *See generally id.* USCIS does not accept signatures created by a typewriter, word processor, stamp, auto-pen, or similar device. *See generally id.*

In conclusion, we previously determined that the Petitioner did not satisfy her burden of proof to establish eligibility for the national interest waiver. The additional evidence the Petitioner submits on motion is not sufficient to overcome this determination. The Petitioner also has not shown that we erred as a matter of law or USCIS policy in dismissing her appeal, or that our decision was otherwise incorrect based on the evidence in the record of proceedings at the time it was issued. Consequently, she has not established that reopening and reconsidering our prior adverse decision is warranted.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.