U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38218803

Date: JULY 28, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a compliance manager, 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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not that waiver of the required job offer, and thus of a labor certification, would be in the national interest. We dismissed a subsequent appeal. We also dismissed two subsequent combined motions to reopen and reconsider. The matter is now before us on a third 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). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the motions.

In denying the initial petition, SCOPS concluded that the Petitioner had not demonstrated the national importance of her proposed endeavor, among other eligibility requirements. On appeal, we agreed that the Petitioner had not demonstrated the national importance of her proposed endeavor and reserved the Petitioner's remaining eligibility requirements under the *Dhanasar* framework. Regarding the Petitioner's first and second motion to reopen, the Petitioner did not submit new evidence relevant to the reasons for our dismissal of her appeal that establish her eligibility. Therefore, we dismissed both motions to reopen because they did not contain documentary evidence of new facts, as required. We also dismissed the Petitioner's first and second motions to reconsider because she did not demonstrate that our conclusion that she had not established the national importance of her endeavor was incorrect according to law and policy.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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). 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).

The instant motion to reopen is nearly identical to the second motion to reopen. The Petitioner submits a copy of our February 2025 decision dismissing the second motion to reopen and reconsider, a copy of SCOPS's decision denying her petition, and two articles. These articles are titled: "Money laundering risks and threats" and "Clarity on Financial Crime in Banking."[1] We interpret "new facts" to mean those that are relevant to the issues raised on motion and that have not been previously submitted in the proceedings, which includes within the original petition. 8 C.F.R. § 103.5(a)(2). The Petitioner's submissions on motion, most of which were previously a part of the record, do not state new facts and therefore do not constitute "new facts" for the purposes of a motion to reopen. Similarly, the submitted articles do not mention the Petitioner, her company, or otherwise speak to the potential prospective impact of her proposed endeavor. The Petitioner makes no assertion on motion as to how this submitted evidence contains new facts that establish her eligibility. As the Petitioner's motion does not contain "new facts," it does not meet the requirements of a motion to reopen.

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). 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). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion to reconsider, the Petitioner reasserts her eligibility for the national interest waiver and renews claims made below. The Petitioner claims that our motion dismissal should have afforded more evidentiary weight to the subject matter of her proposed endeavor, but the Petitioner does not cite a relevant authority to show error on our part in this regard. Our two motion dismissal decisions, along with the appeal dismissal, explained that the determination of national importance focuses on the specific endeavor a Petitioner proposes to undertake, rather than the specific area or field. *See Matter of Dhanasar* at 889. Contrary to the Petitioner's assertions in the current and prior motions to reopen and reconsider, and as explained in our previous decisions, there is no "established list" of requirements to demonstrate national importance, nor is there a "national initiative" requirement.

The Petitioner again makes the identical argument that "USCIS derogatorily and erroneously [equated] the lack of geographical implication and the lack of potential to employ U.S. workers as failure to show national importance." Although the Petitioner made economic assertions regarding the small business economy in her first and second motions to reconsider, we concluded that the Petitioner had not provided information or an explanation to establish her own proposed endeavor would have substantial positive effects in that environment. In the instant motion, the Petitioner again provides figures regarding small businesses in the Florida economy. However, she similarly does not provide corroborating evidence of her claims that *her specific endeavor* would contribute to the local economy on a scale reflecting national importance. Moreover, even assuming these contentions were supported,

[1] The second motion to reopen included three articles. These articles had similar content and were titled: "Money Laundering Poses a Risk to Financial Sector Stability," "Financial crime: How banks and other financial institutions protect themselves against criminals," and "Entrepreneur-Led Economic Development: A New Strategy for Generating Local Growth and Productivity."

they necessarily could not demonstrate that our previous decision was incorrect according to the evidence in the record at the time.

Next, the Petitioner contends that *Matter of Dhanasar* does not require "as a single and essential requirement" proof of "concrete benefits in economically depressed areas." However, the Petitioner has not explained how our decision dismissing her first and second motions required such a showing. As we stated in our prior decisions, we explicitly considered non-economic evidence submitted by the Petitioner regarding her industry.

The Petitioner also makes several arguments related to the SCOPS's decision and our decision dismissing the appeal. However, these are not the decisions before us here. A motion's scope is limited to the "prior decision" and the "latest decision in the proceeding," which, in this case, is our second motion dismissal decision. 8 C.F.R. § 103.5(a)(1)(i), (ii).

Although the Petitioner has submitted additional evidence in support of the motion to reopen, she has not established eligibility or that she submitted "new facts." 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 it. Therefore, the motions 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.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.