U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38872918

Date: JUNE 5, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, an entrepreneur in the field of production engineering, seeks employment-based second preference (EB-2) 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 the record did not establish the Petitioner is eligible for a waiver of the job offer requirement in the national interest. We dismissed the appeal and two subsequent combined motions to reopen and reconsider. The matter is now before us on third combined motions to reopen and reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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). *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome). 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.

In our prior decision on the Petitioner's second combined motions to reopen and reconsider, we explained that the Petitioner repeated several of her arguments regarding her eligibility for the underlying EB-2 classification and the national importance of her proposed endeavor from her previous combined motions. On the present motion to reconsider, the Petitioner again claims that she qualifies for EB-2 classification and that our prior decision did not consider the evidence that she holds the foreign equivalent of a U.S. baccalaureate degree and twenty years of post-baccalaureate progressive work experience in her occupation. The Petitioner also resubmits her academic evaluation.

As we explained in our prior decisions on the Petitioner's first and second combined motions, the record shows the Petitioner holds two undergraduate degrees, one awarded after three and a half years of study and one awarded after two years of study. These degrees are not equivalent to a U.S. bachelor's degree because a U.S. baccalaureate degree generally requires four years of education. *Matter of Shah*, 17 I&N Dec. 244 (Reg'l Comm'r 1977).

On the present motion to reconsider, the Petitioner also asserts she has twenty years of post-baccalaureate progressive experience in her specialty. However, she does not address our prior determination that even if we considered her second degree to be equivalent to a U.S. bachelor's degree, she was awarded that degree in August 2019 and filed the petition in November 2022, which was less than five years later. Consequently, she could not have at least five years of progressive experience in her specialty which would qualify her for EB-2 classification as an advanced degree professional. The Petitioner's assertion on the present motion and the resubmitted academic evaluation do not establish any misapplication of law or policy in our prior determination.

The Petitioner also asserts our prior decision did not recognize evidence establishing the national importance of her proposed endeavor, a digital marketing and mobile application consultancy company. The Petitioner repeats claims she previously made that her proposed endeavor impacts an issue identified as being of national importance, as described in various unspecified government initiatives, "has the prospective potential to generate broader implications within the United States," has positive economic effects and national implications. Apart from her business plan and an article entitled "The State of American Entrepreneurship," which we addressed in our prior decisions on her first and second combined motions, the Petitioner does not cite any evidence establishing the national importance of her proposed endeavor that we did not address in our prior decisions on appeal or on her first and second combined motions. Consequently, the Petitioner has not demonstrated any misapplication of law or policy in our prior determinations that she did not establish the national importance of her proposed endeavor.

On her present motion to reopen, the Petitioner repeats her prior assertions regarding the claimed national importance of her proposed endeavor. The Petitioner also asserts her proposed endeavor will "focus on enhancing health services and large-scale economics." The Petitioner submits an article entitled "Telehealth: A quarter-trillion-dollar post-COVID-19 reality?" Our assessment of national importance does not focus on the importance of a field in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). While this article addresses the growth and importance of telehealth in the United States, it does not address the Petitioner's proposed endeavor. *Cf. id.* at 892 (citing media articles and other evidence documenting Congressional interest in Dhanasar's research).

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy based on the record at the time we issued our decision. 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.