U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38641206

Date: JUNE 9, 2025

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Skilled Worker)

The Petitioner, a nonprofit provider of services for disabled people, seeks to employ the Beneficiary as a social service assistant. The organization requests her classification under the employment-based, third-preference (EB-3) immigrant visa category as a "skilled worker." *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). Organizations may sponsor aliens for U.S. permanent residence in this category to work in jobs requiring at least two years' training or experience. *Id.*

Service Center Operations (SCOPS) denied the petition. SCOPS concluded that the Petitioner demonstrated neither its required ability to pay the offered job's proffered wage nor the validity of its representative's signature on the accompanying certification from the U.S. Department of Labor. We dismissed the organization's following appeal, finding that it did not specify any legal or factual errors in SCOPS' ability-to-pay finding. *See In Re: 36285076* (AAO Mar. 14, 2025).

The matter returns to us on the Petitioner's combined motions to reopen and reconsider. The organization bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Because the motions do not explain the organization's basis for challenging SCOPS' ability-to-pay finding, we will dismiss them.

I. LAW

A motion to reopen must state new facts, supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). In contrast, a motion to reconsider must demonstrate that our prior decision misapplied law or policy based on the evidence at the time of the decision. 8 C.F.R. § 103.5(a)(3). On motion, our scope of review is limited to our latest decision in the 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.

II. ANALYSIS

A. Ability to Pay the Proffered Wage

On appeal, the Petitioner contended that it "has adequately established the ability to pay the wage, as will be explained in greater detail in the supporting brief." *See* 8 C.F.R. § 204.5(g)(2) (requiring petitioners to demonstrate their continuing abilities to pay proffered wages from the corresponding petition priority dates until the corresponding beneficiaries obtain U.S. permanent residence). The organization indicated that it would submit a written brief within 30 days of the appeal's November 2024 filing.

But, by the time we issued our appellate decision in March 2025, we had not received any further submissions in this matter from the organization. We therefore found that, because the Petitioner did not explain the basis of its challenge to SCOPS' ability-to-pay finding, it did not demonstrate its ability to pay the offered job's proffered wage. *See Nolasco-Amaya v. Garland*, 14 F.4th 1007, 1012 (9th Cir. 2021) (citation omitted) ("The purpose of the 'specificity requirement is to ensure that the [agency] is adequately apprised of the issues . . . so that the [agency] is not left to search through the record and speculate on what possible errors the [petitioner] claims.'"); *see also Matter of Valencia*, 19 I&N Dec. 354, 355 (BIA 1986) ("Without a specific statement, [we] can only guess at how the [party] disagrees with the . . . decision.")

On motion, the Petitioner's Form I-290B, Notice of Motion, states:

> The Decision states that the appeal was not briefed by the appellant, but this is not correct. The Appellant submitted a brief in support of the appeal, and resubmits the same. The decision should be reversed for the reasons explained in the brief.

The Petitioner's motions, however, lack a brief. Also, we again reviewed the appellate filing and could not find the brief the organization claims to have previously submitted.

Because the Petitioner's motions do not specify any legal or factual errors in SCOPS' ability-to-pay finding, we will dismiss the filings.

B. The Signature on the Labor Certification

Even if the Petitioner's motions demonstrated the validity of its representative's signature on the accompanying labor certification, we would dismiss them based on their insufficient challenges to SCOPS' ability-to-pay finding. We therefore need not reach and hereby reserve consideration of the organization's arguments regarding its representative's signature on the labor certification. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

III. CONCLUSION

The Petitioner's motions do not explain the basis of its challenge to SCOPS' ability-to-pay finding. They therefore do not demonstrate eligibility for the requested benefit.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.