U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31386054

Date: JUN. 17, 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 the Petitioner had not established eligibility for a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal. The matter is now before us on combined motions 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 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). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion to reopen, the Petitioner submits a brief explaining how she meets the criteria for the requested classification, a new "Professional Plan," an evaluation of her education and experience, and an expert opinion letter. On motion to reconsider, the Petitioner does not address our prior decision, or allege that our prior decision was based on an incorrect application of law or policy at the time we issued the decision.

In our prior decision, incorporated here by reference, we determined the Petitioner did not meet the first prong of the analytical framework in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), to adjudicate national interest waiver petitions. We found the Petitioner did not establish the national importance of her proposed endeavor. *See id.* at 889 (providing in relevant part that, to establish

eligibility for a national interest waiver, the petitioner must establish that their specific proposed endeavor has national importance). We addressed the Petitioner's contentions regarding the importance of education, bilingual and diverse teachers, attendance, and a wide variety of other topics and determined they did not demonstrate any broader implications of the Petitioner's proposed endeavor at a level of national importance. *See id.* (stating that national importance is evaluated through consideration of "potential prospective impact" and "broader implications"). We further determined that the Petitioner did not provide evidence that her proposed endeavor would positively impact the national economy. *See id.* ("An endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, . . . may well be understood to have national importance."). We concluded that the record did not show through supporting documentation how her particular services sufficiently extend beyond her prospective students, teachers, or school[s] to impact the field or the U.S. economy more broadly at a level commensurate with national importance.[1] On motion, the Petitioner does not identify any specific misapplication of law or policy in these determinations.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, she did not state new facts as they relate to our prior decision. The evidence submitted largely repeats what was already included in the record, and the new Professional Plan and recommendation letter again do not show that her potential endeavor will have broader implications at a level of national importance, or that the endeavor would impact the field or the U.S. economy more broadly at a level commensurate with national importance. 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 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.

[1] *See also generally* 5 USCIS Policy Manual D.2, https://www.uscis.gov/policymanual (instructing that while proposed classroom teaching activities in STEM, for example, may have substantial merit in relation to U.S. educational interests, such activities, by themselves, generally are not indicative of an impact in the field of STEM education more broadly, and therefore generally would not establish their national importance).