U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37915061

Date: MAY 1, 2025

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 section 203(b)(2), 8 U.S.C. § 1153(b)(2).

Service Center Operations denied the petition, concluding the record did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed the Petitioner's appeal, a combined motion to reopen and motion to reconsider, and a subsequent motion to reconsider. The matter is before us again on motion to 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 motion.

We incorporate by reference our analysis in our prior decisions on the Petitioner's appeal and motions. By way of summation, the Petitioner proposes to work in the United States as a human resources and marketing communications specialist at her own consulting services company. We acknowledged specific evidence in the record, including the Petitioner's personal statement, a business plan for the Petitioner's company, opinion letters, and a letter from a client. However, we explained why, under the preponderance of evidence standard, the totality of the record does not establish how the potential prospective impact of the proposed endeavor may have broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong. *Matter of Dhanasar*, 26 I&N Dec. 884, 889-90 (AAO 2016); *see also Matter of Chawathe*, 25 I&N Dec. at 376-76.

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).

A motion to reconsider is a request to reexamine a decision in light of additional legal arguments, a change in law, or an aspect of a case that was overlooked. *See, e.g., Matter of O-S-G-*, 24 I&N Dec.

56, 57 (BIA 2006) (quoting *Matter of Ramos*, 23 I&N Dec. 336, 338 (BIA 2002) (quoting *Matter of Cerna*, 20 I&N Dec. 399, 402 n.2 (BIA 1991))). However, the Petitioner's contentions in the current motion to reconsider merely reargue facts and issues we have already considered in our prior decisions. *See, e.g., Matter of O-S-G-*, 24 I&N Dec. at 58 (providing that a motion to reconsider is not a process by which a party may submit, in essence, the same brief already presented and seek reconsideration by generally alleging error in the prior decision). We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

We note that, even if we were to re-adjudicate the petition anew, the reliability and sufficiency of the record would be diminished. On the Form I-140, Immigrant Petition for Alien Workers, Part 6. Basic Information About the Proposed Employment, the Petitioner indicated that her annual wage would be $70,000. However, the business plan in the record states that the Petitioner's annual wage would be $42,000 in her company's first year of operations, increasing to $51,051 in the fifth year of operations, at all times substantially less than the annual wage of $70,000 reported on the Form I-140. In turn, all of the other annual wages the business plan indicates the company would pay its employees are less than the Petitioner's annual wage for the respective years—the business plan does not provide any wage for any position that corresponds to the $70,000 annual wage referenced on the Form I-140. The record does not reconcile why the business plan, which appears to credit the Petitioner as having prepared it personally, provides annual wage information for the Petitioner that is substantially less than the annual wage she stated on the Form I-140 that she would pay herself working for her own company.

The extent of the discrepancies between the Petitioner's statements regarding her own annual wage on the Form I-140 and in the business plan casts doubt on the veracity of the business plan, specifically its financial information, which undermines the reliability and sufficiency of the business plan and the totality of the record more generally. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (providing that doubt cast on any aspect of a petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition). Because the reliability and sufficiency of the business plan's wage information is undermined, the reliability and sufficiency of its other financial information, including revenue estimations and anticipated expense calculations, such as the number of workers the consulting company may need—and afford—to employ, are similarly diminished. The veracity of the financial information in the record is material because it addresses the extent to which the proposed endeavor may have the potential to employ U.S. workers and have other positive economic effects, and what those economic effects may be, which are factors in determining whether an endeavor may have national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90.

ORDER: The motion to reconsider is dismissed.