U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38197674

Date: MAY 1, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a human resources director, 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 Texas Service Center denied the petition, concluding that the Petitioner did not establish eligibility for a waiver of the required job offer, and thus of the labor certification, in the national interest. We dismissed a subsequent appeal and two motions to reconsider. The matter is now before us on a third 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.

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.

In our prior decision on appeal, we determined the Petitioner did not establish the national importance of her proposed endeavor and reserved consideration of whether she met the second and third prongs of the analytic framework in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"). In our decisions on the Petitioner's first and second motions to reconsider, we determined the Petitioner did not establish any incorrect application of law or policy in our prior decisions based on the evidence in the record of proceedings at the time of those prior decisions.

On her third motion, the Petitioner asserts we disregarded evidence establishing the national importance of her proposed endeavor. Specifically, the Petitioner claims articles on small businesses show her proposed endeavor would substantially benefit the U.S. economy. The Petitioner also asserts an expert opinion letter affirms the significant national-level economic impact of her proposed endeavor. The Petitioner further claims letters from active and prospective clients established the national relevance of her proposed endeavor. The Petitioner also asserts her business plan established the national importance of her proposed endeavor.

The Director considered all this evidence and acknowledged it in her decision denying the petition. We also considered all this evidence in our prior decision on appeal. In our decision on appeal, we specifically explained why the Petitioner's business plan and expert opinion letter were insufficient to establish the national importance of her proposed endeavor.

The Petitioner's contentions in her current motion reargue facts and issues we have already considered in our previous decisions. *See e.g., Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) ("a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior Board decision"). We need not repeat the analysis contained in the Director's and our prior decisions explaining the insufficiency of the evidence to establish the national importance of the Petitioner's proposed endeavor.

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 motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.