U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42971482

Date: MAY 19, 2026

Motion on Administrative Appeals Office Decision

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

The Petitioner, a tourism consultant and an entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability in the sciences, arts or business, 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).

Service Center Operations (SCOPS) denied the national interest waiver petition, concluding that the Petitioner did not establish eligibility for the EB-2 immigrant classification or that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. SCOPS then dismissed the Petitioner's combined motion to reopen and motion to reconsider. The Petitioner appealed. We dismissed this appeal and four subsequent motions. The matter is now before us on a 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.

On motion, the Petitioner contests the correctness of our prior decision.[1] The Petitioner contends that we erred in our prior decision by not "fully addressing additional categories of evidence" in relation

[1] The Petitioner states in Part 3 of the Form I-290B, that we failed "to apply the 'preponderance of the evidence' standard to the medical documentation previously submitted." Further, she states that "this motion presents a clarified medical nexus not previously adjudicated: the specific impact of the Petitioner's 2024 health crisis on her cognitive ability to meet regulatory deadlines." We note that neither the previous motion or the instant motion provides medical documentation or

to her exceptional ability claim as well as not including a "clear cumulative analysis" which, she contends, suggests the totality of the record was not fully assessed. In addition, the Petitioner asserts that we erred by not providing a substantive assessment of the additional evidence she submitted in support of her eligibility under the three prongs of the *Dhanasar* framework. As we have addressed in previous decisions, the Petitioner again seeks to reach back to earlier stages of the proceeding that are outside the scope of a motion. Here, our decision is limited to a review of our February 2026 decision. Although the Petitioner contends that these claims relate to our most recent decision, the Petitioner's eligibility for EB-2 classification as an individual of exceptional ability and her eligibility for a national interest waiver were not within the scope of our decision. The decision's scope was limited to a review of our October 2025 decision. Therefore, our decision properly limits its analysis to the October 2025 decision and does not re-adjudicate the underlying petition.

General support that a motion must first overcome the most recent decision, our February 2026 decision, lies within the regulation at 8 C.F.R. § 103.5(a)(1)-(3), which discusses requirements for reopening and reconsideration that include the underlying or latest decision, the time limits in which one may file a motion after the most recent decision, as well as jurisdiction resting with the entity who made the latest decision. This demonstrates that any motion must first address and overcome the most recent adverse decision before the filing party's arguments may move on to any issue that arose in a previous petition, appeal, or motion filing.

We also note that motions for the reopening or reconsideration of immigration proceedings are disfavored for the same reasons as petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. *See INS v. Doherty*, 502 U.S. 314, 323 (1992) (citing *INS v. Abudu*, 485 U.S. 94, 107-108 (1988)). Furthermore, the Petitioner's multiple motion filings thwart the strong public interest in bringing issues to a close, particularly in immigration proceedings where every delay works to the filing party's advantage who wishes to remain in the United States. *Cf. Hernandez-Ortiz v. Garland*, 32 F.4th 794, 800-01 (9th Cir. 2022) (citing *INS v. Doherty*, 502 U.S. at 323 and *INS v. Abudu*, 485 U.S. at 107-08).

Here, the Petitioner does not demonstrate that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion to reconsider will be dismissed. 8 C.F.R. § 103.5(a)(4). As stated above, the scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). The Petitioner's contentions in the current motion merely 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 will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

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information on a "health crisis." In addition, the "ability to meet regulatory deadlines" has not been an issue before us related to the Petitioner's case. Therefore, this does not meet the requirements of a motion to reconsider.

ORDER: The motion to reconsider is dismissed.

NOTICE: Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.