U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32293054

Date: NOV. 12, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, an instructional coordinator, 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 qualifies as an advanced degree professional but that the record did not establish that a waiver of the job offer requirement is in the national interest. We dismissed a subsequent appeal and a prior combined motion to reopen and motion to reconsider. The matter is before us again on a combined motion to reopen and 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 reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

We incorporate by reference our prior analysis in both the appeal decision and the underlying combined motion to reopen and motion to reconsider decision. By way of summation, the Petitioner proposes to create a virtual reality education tool. We dismissed the appeal because, as the Director concluded, the record does not establish how the proposed endeavor may have national importance, as required by the first prong of the framework for adjudicating national interest waiver petitions outlined in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). We acknowledged that the Petitioner submitted new evidence in support of the underlying motion to reopen, including sample lesson plans and outlines; however, we dismissed the prior motion to reopen because they do not establish that we erred as to our reason for dismissing the Petitioner's appeal—the lack of national importance of the proposed endeavor. *See Matter of Coelho*, 20 I&N Dec. at 473 (requiring that new evidence have the

potential to change the outcome). We also dismissed the prior motion to reconsider because, despite the Petitioner's assertions that we did not consider the record in its entirety, the Petitioner did not identify any specific evidence she contended we overlooked or misinterpreted. *See* 8 C.F.R. § 103.5(a)(3) (requiring a motion to reconsider to establish that the underlying decision was based on an incorrect application of law or policy).

Now, on motion to reopen, the Petitioner submits a brief and an undated, partially typewritten and partially handwritten document titled both "Technology Plan Supplement" and "Technology Plan for Integrating Virtual Reality (VR) in Teaching." The technology plan supplement "outline[s] the implementation of virtual reality (VR) technology in teaching to enhance student engagement, facilitate immersive learning experiences, and improve educational outcomes across various subjects and disciplines." However, it does not address how the potential prospective impact of the specific endeavor that the Petitioner proposes to undertake may have the type of broader implications indicative of national importance, as contemplated by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889. For example, the technology plan supplement does not elaborate on how the proposed endeavor may have national or even global implications within the field of education—or any other particular field—such as those resulting from certain improved manufacturing processes or medical advances. *See id.* at 889-90. As another example, the technology plan supplement does not address how the proposed endeavor may have significant potential to employ U.S. workers or other substantial positive economic effects, particularly in an economically depressed area. *See id.*

The Petitioner does not otherwise provide documentary evidence to support a new fact asserted on motion to reopen material to the issue of whether the proposed endeavor may have national importance, which is dispositive. Therefore, we will dismiss the motion to reopen. 8 C.F.R. § 103.5(a)(2), (4).

Next, 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 reconsider, the Petitioner quotes a passage from the U.S. Citizenship and Immigration Services (USCIS) Policy Manual regarding national interest waiver petitions, and she references documents in the record that provide generalized information regarding education and technology, and letters of recommendation and interest, quoting verbatim assertions she already made in the record.

As we explained in our prior decisions, the documents in the record, referenced by the Petitioner again on motion to reconsider, that provide generalized information regarding education and technology do not identify the Petitioner or the specific endeavor she proposes to undertake; thus, they are immaterial to the issue of whether the specific endeavor the Petitioner proposes to undertake may have national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90; *see also Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (providing that a motion to reconsider is not a process by which a petitioner may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior decision). Because those documents are immaterial to whether the specific

endeavor the Petitioner proposes to undertake may have national importance, we did not err by concluding as much and we need not address them further.

In turn, we addressed the "many letters of support from colleagues and friends" in the underlying appeal decision, noting that the record—including those letters of recommendation and interest—contain "very little specific information about the Petitioner's proposed endeavor" and how it may have national importance, as contemplated by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90. The Petitioner's references on motion to reconsider to the same letters in the record we addressed in our prior decisions do not change the quantity or quality of information the letters contain, nor does the Petitioner establish on motion to reconsider how we erred by concluding the letters do not satisfy the first *Dhanasar* prong.

We acknowledge that the Petitioner asserts on motion to reconsider, "neither USCIS [policy] manual . . . nor *Dhanasar* case states that the new endeavor cannot be to some extent created based on the existing successful project," addressing our observation in the decision on the prior combined motion that evidence she submitted in support of that motion "relate to a different educational program and do not establish any relevant facts related to the proposed [endeavor] and its potential prospective impact." Contrary to the Petitioner's assertions on motion to reconsider, the primary issue with her submission of information about a prior project in which she participated is not that the proposed endeavor may "be to some extent created based on the existing successful project." Rather, the primary issue with that evidence is that information about a prior project in which the Petitioner participated does not inform how the specific, prospective endeavor she proposes to undertake may have national importance. For example, information about a prior project in which the Petitioner participated does not inform how the proposed endeavor may have national or even global implications within the field of education—or any other particular field—such as those resulting from certain improved manufacturing processes or medical advances, significant potential to employ U.S. workers or other substantial positive economic effects, particularly in an economically depressed area, or other indicia of national importance, as contemplated by the first *Dhanasar* prong. *See id.* at 889-90. More to the point, the Petitioner does not establish on motion to reconsider how we may have misapplied law or policy to that evidence. *See* 8 C.F.R. § 103.5(a)(3).

Because 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, the motion to reconsider will be dismissed. 8 C.F.R. § 103.5(a)(3)-(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.