U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35037201

Date: NOV. 19, 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 Texas Service Center denied the petition, concluding that the Petitioner had not established 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 on the same basis. The matter is now before us again on a combined motion 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 motion.

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 incorporate our prior decision by reference and will repeat only certain facts and evidence as necessary to address the Petitioner's claims on motion.

Initially, the Petitioner stated that her proposed employment was "veterinary assistant" and the duties of her proposed endeavor were to "feed, water, and examine pets and other nonfarm animals for signis (sic) of illness, disease, or injury." In the November 2022 statement accompanying the petition, the Petitioner stated that her proposed endeavor was to establish a veterinary clinic. The services offered by the veterinary clinic included animal aesthetics, hygiene, physical care, vaccinations, animal welfare and health, preparation of animals for fairs, auctions, and contests, semen extraction and fertilization, export and import assistance, verification of norms, rules, necessary care, and documentation, and emergency and hospitalization services.

With the instant motion, the Petitioner submits a detailed statement addressing the substantial merit and national importance of her proposed endeavor. In summary, the Petitioner asserts that her

veterinary clinic will offer a comprehensive and innovative approach to animal care, offering specialized consultations to emergency treatments to advanced therapies, including ozone therapy, advanced fluid therapy; international animal transportation initiatives; and partnerships with other veterinary clinics and hospitals, academic institutions, and veterinary research centers, to expand the reach and influence of the innovations and practices developed at the clinic. The Petitioner also contends that the clinic will participate in international conferences and workshops, sharing its discoveries and innovations with the global veterinary community. In addition to the creation of jobs, the Petitioner contends that the clinic will partner with vocational schools and veterinary training programs to offer internships and professional development programs, and will contribute to the growth of veterinary tourism, which, in turn, will impact other economic sectors, including hotels, restaurants, and transportation services. The Petitioner also contends that the clinic will implement a biohazard waste management system that contributes to environmental preservation and will invest in emerging technologies such as veterinary telemedicine.

Although we have considered the merits of the Petitioner's contentions on motion, we note that, in general, material changes made after the filing of a petition need not be considered. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998). In *Matter of Izummi*, the petitioner submitted numerous revisions to a partnership agreement following the director's denial, some of which were made specifically to address the "objected-to" provisions and were intended to "render the instant petition approvable." *Id.* at 175. We concluded that those amendments would not be considered in adjudicating the petition, because "a petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to Service requirements." *Id.* at 375-76. Similarly, here, we conclude that the Petitioner's statements on motion regarding her proposed endeavor amount to an attempt to correct a deficient petition after filing. Therefore, we "cannot consider facts that come into being only subsequent to the filing of a petition." *Id.*

As to the Petitioner's motion to reconsider, the Petitioner does not claim that our decision to dismiss the appeal was based on an incorrect application of law or policy and 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). As stated above, our review on motion is limited to reviewing our latest decision. 8 C.F.R § 103.5(a)(1)(ii). To succeed on motion, the Petitioner must first establish that our dismissal of the appeal was based on an incorrectly applied law or policy, which she has not done. 8 C.F.R. § 103.5(a)(1)(i), (a)(3). The Petitioner has not met the regulatory requirements of a motion to reconsider.

We find that the Petitioner has not submitted new facts supported by documentary evidence sufficient to warrant reopening the appeal or established that our prior decision was based on an incorrect application of law or USCIS policy or that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.