U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35233185

Date: NOV. 26, 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 or 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).

The Director of the Texas Service Center denied the petition, concluding that the record did not establish the Petitioner's eligibility for the requested national interest waiver. We dismissed a subsequently filed appeal as well as a motion to reconsider. The matter is now before us again on motion to reconsider. 8 C.F.R. § 103.5(a)(3).

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). 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).

In our appellate decision, we agreed with the Director that the Petitioner did not meet the first prong of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). Specifically, we acknowledged the Petitioner's contentions and documentation submitted on appeal, but explained that she did not establish her endeavor of operating a business specializing in nationwide long-distance freight hauling and transportation services would result in broader implications beyond the immediate benefits to her prospective clients at a level commensurate with national importance, or otherwise result in substantial economic effects.

And in our decision dismissing the Petitioner's motion to reconsider, we acknowledged the Petitioner's resubmission of her appeal brief, but explained that these arguments were fully addressed in our prior decision dismissing her appeal. Accordingly, we dismissed the Petitioner's first motion to reconsider because she did not establish that we erred as a matter of law or policy, nor did she establish our prior decision was incorrect based on the record at the time of the decision. 8 C.F.R. § 103.5(a)(3).

On motion, the Petitioner again submits the same brief initially submitted on appeal with only a passing acknowledgement of our dismissal of her motion to reconsider. On motion, the Petitioner does not identify any error in our decision dismissing the motion to reconsider. 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 their current motion again 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.

ORDER: The motion to reconsider is dismissed.